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# West Europe Report

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## WEST EUROPE REPORT

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## AFME TO PROVIDE FINANCING FOR ENERGY-SAVING EQUIPMENT

Paris L'USINE NOUVELLE in French 28 Oct 82 pp 130, 131

/Article by Brigitte Dyan: "Energy Saving: Who Can Help You?"/

/Text/ Subsidies from AFME /French Energy Control Agency/, supersubsidized loans from National Credit, a la carte interest rates from SOFERGIES /expansion unknown/...A complete apparatus of aid, tax incentives and financing is at the disposal of PMI /Small and Medium Sized Industries./

Energy-saving investments remain one of the means to quickly and noticeably decrease production costs. Contrary to common belief, they are not "like all other investments." Their technical risk is limited and they lend themselves to easy profitability studies which are not based on the more or less random hypotheses of the market and of profit. The economic risk is, therefore, small. Finally, most of these investments, have a payback time of 1 and 1/2 to 3 years. Therefore, they remain profitable, even if the price of fuel oil happens to drop.

A complete program of aid, tax incentives and financing has been implemented, and it would be a good idea to summarize it. The French Energy Control Agency (AFME) is in charge of the operation of this program, and has taken up the task since spring 1982, the time of the merger of the former French Agency for Energy Saving and the Commission for Solar Energy, the Heat Mission as well as the Geothermal Mission.

#### About Ten Regional Delegations in 1983

"The AFME expects to escape the administrative framework which did not spare the former agency," explained Michel Hoes, engineer of the industrial-agricultural service of the AFME. The Agency is offering industries a single go-between and shorter decision times. About ten regional delegations will be set up during the year of 1983, a measure which will be extended to all of the regions after that.

A particular effort has been made to associate the PMI with the energy-saving investments. Thus, aid to the dissemination of techniques is reserved for firms employing less than a thousand persons, with annual sales of less than Fr 500 million, and which do not have establishments using more than 5,000 toe/year.



## A "Custom-Made" Financing in Leasing

This aid promotes products that have already been tested such as variable-speed motors, thermal generators using wastes, in all, about 15 pieces of equipment. The SAMC /Construction Materials Company/, a PMI which produces plaster at Vaujour, in the Paris region, was able to equip itself in this way with variable-speed motors whose acquisition had been planned for a long time for technical reasons.

"We received a subsidy of approximately 25 percent," says Jacques Simon engineer of the new construction work for SAMC. "It was very quick. The application was made in July 1981, the answer given in November." The result: 8 percent electricity conservation, additional savings of labor and gas that are more difficult to appraise.

Among the various financing and credit measures, the establishment of the SOFERGIES should be mentioned. They give firms a "custom-made" leasing financing. In operation since the end of 1981, they are devoted to furnishing and real-estate leasing for the financing of facilities or of equipment which conserves energy or the development of sources of replacement for hydrocarbons, specifically coal.

Thanks to the special status (they are exempt from corporate tax), the SOFERGIES can apply "a la carte" interest rates. Depending on the profitability of the investment, the interest rates will be degressive, constant, or progressive. On the other hand, the SOFERGIES have been eligible for a special funding package of subsidized loans worth Fr 500 million. They can receive certain subsidies from the AFME and super-subsidized loans from National Credit (package of Fr 2 million). All of these advantages are passed on to the firms which are their leasing customers. "According to my calculations, subsidized loans alone can represent a subsidy of approximately 7 percent of the cost of the investment," says Jean Stern, president of SOGEFINERG /expansion unknown/.

Applying adaptable and competitive schedules, the SOFERGIES also offer the possibilities of amortizing real investments over the duration of the investment of the equipment (when the latter represents at least 80 percent of the total.)

"The SOFERGIES really represent a lucrative possibility, that of financing 100 percent of investments "a la carte," comments Pierre Conso, financial director of French Cements, who knows what he is talking about. In 1982, the company replaced 85 percent of its supply of hydrocarbons by coal.

# GENERAL AID PROCEDURES

Beneficiary	Type of aid	Financing	Sum	Distributing organization
Manufacturers of energy-saving equipment and laboratories	Aid to innovation	Up to 50 percent of expenditures.	Since 1979: Fr 45 million	AFME
	Long-term loan subsidized 12.75 percent, for renovation of production tools.	Up to 70 percent of total, exclusive of taxes, of the investment devoted to energy saving.	Total funding of Fr 2.5 billion	National Credit, CEPME /Equipment Credit for Small and Medium Firms/, Regional Development Companies, Cooperative Credit Fund.
Equipment users.	Aid for innovation in the use of new equipment.	Up to 50 percent of the investment.	Since 1975: Fr 61 million in 3 years	AFME
	Aid to the dissemination of technology for certain equipment, the list of which is limiting.	Up to 20 percent of total (equipment + work + related equipment)	Since 1981: Fr 21 million in several months.	AFME
Firms involved: sales of Fr 500 million exclusive of tax and less than 1,000 persons.				

Subsidized loans 12.75 percent	Long-term, 12 years maximum, 12.75 percent. Middle-term, 7 years maximum, subsidized by one point.	Total funding of Fr 2 billion.	National Credit, CEPME, Regional Development Company, Cooperative Credit Fund.
Partially freed bank credit.	Middle-term, subsidized by one point.		All the specialized banking and financial institutions.
Leasing	Equipment and real-estate investments, flexible interest rates depending on profitability of the operation		SOFERGIES
Accelerated digressive amortization	Coefficient applicable to amortization rate is increased by 0.5 percent.		
Tax incentives	15 percent of the investment, exclusive of taxes, in 1982, under certain conditions.		

# AID TO REPLACEMENT ENERGY FORMS ACCORDED BY AFME

(FRENCH ENERGY CONTROL AGENCY)

Replacement energy/	Research	Equipment	Objectives
Conversion to coal	Financed up to 50 percent (limited to Fr 250,000, exclusive of taxes.	Normal Conditions: 25 percent of additional cost, exclusive of taxes, (limited to Fr 250/TOE of annual consumption of hydrocarbon avoided.)	Priority operation. Objective sought: 15 Mt in 1990 or 900,000 TOE of hydrocarbon replaced per year.
		Pilot operations: 40 percent of additional cost, exclusive of taxes, (limited to Fr 400/TOE avoided)	Since 1980: Fr 102 million of subsidy have already been granted.
		The industry promises to begin prior to 30 March 1983, to publish the technical results, etc.	
Heat networks	Financed up to 50 percent (limited to Fr 250,000, exclusive of taxes.	Modulated financing depending on the value of the projects (on the order of 20 percent of the predicted sum in current francs)	
--Geothermal		Concern: heat production or recovery facilities (other than hydrocarbons); transport and distribution networks, terminal facilities for exchange and supply of heat to users.	
--Industrial heat releases			
--Disposal of urban wastes			
--Incineration of coal, wood and biomass.			

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A guarantee fund for the control of energy guarantees the help of financing organizations in order to lighten the security and guarantees required of the firms. Managed by the PME Equipment Credit, it currently has funding of Fr 50 million.

For the PMI consuming less than 5,000 toe/year, decisionmaking aid networks have been established in 1981-1982. Federated by 11 nationalized firms (EDF /French Electrical Company/, Elf-Aquitaine, Syntec...) and regional firms (Etablissements Moreau at Pau, Strasbourg Electrical Company...), these networks propose a free diagnostic service ultimately followed by detailed studies. These networks, controlled by AFME, are made up of consulting engineers, engineering firms, installers, etc.

## SHIPYARDS TO REORGANIZE; BEIRUT BANK AGREES TO PARTICIPATE

Paris L'USINE NOUVELLE in French 28 Oct 82 p 66

/Article by Antoine Thiboumery and Eric Walther: "Shipbuilding: A Private Industry on an International Scale"

/Text/ Reorganized as a single privately owned industry, the France-Dunkerque, La Ciotat and CNIM /Mediterranean Naval and Industrial Constructions/ Shipyards are going to increase their competitiveness and their productivity in the face of foreign competition. That would not suffice if these firms had not begun to diversify their activities.

A new image for French shipbuilding. Announced last December by Louis Le Pensec, Minister of Maritime Affairs, the reorganization of shipbuilding around two poles, one private and the other public, has just crossed its first bridge.

The private pole, which was to unite three shipyards, France-Dunkerque (of the Empain-Schneider group), La Ciotat (of which 89 percent of the stock belongs to financiers from Qatar, Kuwait and Lebanon) and the Mediterranean Naval and Industrial Constructions (CNIM, 84 percent of which is controlled by Herlicq) can take form by the month of January 1983 since the Invest-Bank of Beirut (which owns 89 percent of La Ciotat) has just announced that it was willing to participate.

A new holding company, baptized Nord-Mediterranee by Louis Le Pensec, will be constituted in order to unite the three shipyards. The industrial leadership will be handled, as predicted, by France-Dunkerque.

Participating in the capital of the holding company will be the following /companies/: the Empain-Schneider group (37 percent, which is assuring itself the dominant share), Invest-Bank (35 to 36 percent), Usinor (15 percent) and minority stockholders, La Ciotat and CNIM (12 to 13 percent).

The arrival of Usinor responds to a concern expressed by the administration of being present in this private pole and of having a seat on the board of directors. This operation, which is considered as positive by Usinor, should reinforce the position of the steelmaker in the area of sheet steel for

shipbuilding. But this participation of 15 percent is too limited to bring about the beginning of a true diversification for the group, although the Minister of Research and Industry is studying the possibility of diversifying the two big steel groups "downstream."

This uniting of the three shipyards, which takes place during a difficult period for the shipbuilding industry (orders for ships during the first two quarters of 1982 fell 30 percent compared to 1981 and no recovery is expected before 4 years!) should make it possible to reinforce their competitiveness and their productivity in the face of the large nationalized and international shipyards (South Korea, Japan). The search for viable markets and the diversification of activities it requires constitute one of the objectives of this reorganization. To this end, certain shipyards such as CNIM and La Ciotat have decided to play the "offshore" game.

#### La Ciotat Turns to Conversion of Oil Tankers

The former (CNIM) has already built three jack-up type platforms and a semisubmersible Jumbo (Fr 500 million) is now being finished at La Seyne. Offshore activities now represent 30 percent of the activities of CNIM. La Ciotat Shipyards has also turned in this direction by devoting a portion of its activities to the conversion of oil tankers to floating storage units moored to production platforms. Two products can be chalked up to its credit: the "Medora," for the Fulmar field in the North Sea, and the "Tazorka," which has just been sent to Tunisia.

United in this way, the three private shipyards represent more than 11,000 persons and net sales of approximately Fr 3 billion, which puts the group at the level of its principal foreign competitors.

In order to avoid dismantling CNIM, it has just been decided that Herlicq will contribute its subsidiary, the Coastal Industrial Electric Company, to the new holding company Nord-Mediterranee, but in return it wants to extricate the "terrestrial" portion of the CNIM (see box below).

The constitution of the second pole (the nationalized one) is still the subject of negotiations. According to the Minister of Maritime Affairs, they should be concluded soon. Are we to believe that the merger within Alsthom-Atlantique of three of its subsidiaries: Ateliers et Chantiers de Bretagne (1,500 employees), Soferval (1,800 employees) and Bassano (55 employees) constitutes a condition for any tightening of ties between the Chantiers de l'Atlantique (which belongs to Alsthom-Atlantique) and Dubigeon-Normandie? "That is not involved. The goal sought in this operation is to make the Alsthom-Atlantique group more effective commercially and more competitive technically, in order to be comparable to its international competitors," they are saying at Alsthom-Atlantique.

/Boxed insert by Michel Raphael/

CNIM is Exchanging CIEL /Coastal Industrial Electrical Company--also the word ciel means "sky" in French, explaining the play on words/ for CNIM-Terrestre

The CNIM (Mediterranean Naval and Industrial Constructions at La Seyne) will not come all alone in joining the La Ciotat and France-Dunkerque Shipyards. In its wake will follow the CIEL (Coastal Industrial Electrical Company), the major subsidiary of the Herlicq group. The operation should take place in two stages. In the upcoming days the Herlicq brothers will, in fact, give up their shares of CIEL capital to CNIM, which will thereby go into the final negotiations in a more favorable position. Next 1 January, CIEL will become the wholly owned subsidiary of the new shipbuilding unit, at the same time guaranteeing more than half of its activity and the employment of some 400 of the 700 persons who are currently employed.

In fact, of the Fr 174 million sales in 1981, only approximately 78 million were from non-shipping activity, half of it in exports. A parallel negotiation is being carried out. CNIM would like to extricate the so-called terrestrial sector from the reorganization. It accounts for one quarter of all sales (approximately Fr 500 million in 1981) and employs 800 to 900 persons of the 4,700 employed by the shipyard. There are several dimensions in this sector: escalator manufacture (RATP /Paris subway system/, the Roissy, Marseille-Marignane airports, Hong Kong and Mexico City subways...); construction of incineration plants and sea water desalination plants; manufacture of turbine and boiler units under license, research and manufacture of components for the nuclear industry and for national defense.

The plan currently being proposed is the creation of a company called CNIM-Terrestre, with 51 percent of the shares held by Nord-Mediterranee, the rest by the Herlicq group.

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## AUTO INDUSTRY IN LORRAINE, LILLE, DOUVVIN FACES UNCERTAIN ECONOMY

Paris LES ECHOS in French 22 Nov 82 pp 28-29

[Excerpts] Lorraine: Development Has Not Followed the Plans

Having come to the steel industry's rescue in the area of employment, the automobile industry in Lorraine has not developed according to initial political plans.

"The development of the automobile sector is not a new threatening mono-industry for the regional economy since it accounts for only 2.5 percent of industrial employment in Lorraine and this proportion will be 6 or 7 percent in 1985 when the entire program is implemented." This was the analysis in March 1981 at the regional prefecture.

In fact, jobs have not come as quickly nor in the quantities planned. The ups and downs of the automobile market have spelled doom for certain promises, such as that of Peugeot at Beuvillers, north of Meurthe-et-Moselle (2,000 jobs), or have caused revisions to be made for other locations such as the aluminum foundry at Villers-la-Montagne which will hire 400 individuals in 1983, compared to the 1,200 initially announced. (See below.)

#### 14,000 Individuals

Nevertheless, there are now 14,000 individuals working for the automobile industry in Lorraine, compared to 11,300 in 1977, both in the construction sector and in related sectors (accessories, tires, engine, chassis and frame equipment, etc.) primarily located in Moselle (7,250 employees), in Meurthe-et-Moselle (3,700) and in the Vosges (2,750). But very few steelworkers have become autoworkers (10 percent).

The first explanation is that the advantageous social benefits in the steel industry have not encouraged steelworkers to become candidates for retraining. But, in addition, the men of steel, skilled workers used to working in teams and unable to practice their difficult but noble profession, have not been inclined to switch to a construction industry where the work is largely mechanized (or even uses robots), requires few qualifications and, to top it off, is often less well paid. "Being a steelworker is a profession," explained the regional delegates of the workers' unions.

## Slowed Expansion

The automobile industry, introduced in Lorraine as an outlet for the steel industry, existed before the announcement of the industrialization plans and had large units which supplied the major manufacturers: Auto-Coussin (3 factories and 600 employees in the Vosges), Citroen at Metz-Borny (3,500 employees), Girling (brakes) in Bouzonville (900 employees), the American firm Traylor in Luneville (1,100), CIM in Saint-Die (860), etc. There are also three large tire manufacturers: Michelin in Golbey, Continental in Sarreguemines and Kleber-Colombes in Toul (the firm has just moved its headquarters to Nancy).

The automobile industry's development was speeded up starting in 1977 on the basis of an industrial plan that predicted 7,400 jobs by about 1983 and 7,000 for 1985. An optimistic forecast that the vagaries of the market were not able to support.

Other than the abandoned Peugeot project in Beuvilliers, the factories that were built had to lower their staff estimates. The uncertainty that was hanging over the PSA [Pierre Sadoc and Associates] plan for an aluminum foundry at Villers-la-Montagne (Meurthe-et-Moselle) has just been lifted and means 400 jobs for spring. But the initial plan called for 1,200.

Renault-Batilly is working at 65 percent capacity with 1,052 jobs and has not been able to initiate two shifts as planned in 1982. Its machine factory (SMM) at Basse-Ham, near Thionville, has, however, reached 550 employees out of 1,000 planned.

In Tremery (Moselle), PSA is benefiting from the good BX sales, for which it manufactures motors (1,700 jobs), but 3,600 jobs were hoped for and the Metz-Borny factory (3,500 employees), which was to increase, has only been able to hold the line.

Its subcontractor, Unicardan, employs 300 (out of 1,000 planned) in Flirange; Kassborher Autocars has not surpassed 100 jobs in Ligny-en-Barrois (out of 400), Garrett (Rurbo) has 250 at Thaon-les-Vosges and Bertrand Faure (seats), 450 at Pierrepont (Meurthe-et-Moselle). There are, therefore, about 5,000 firm jobs.

## Lille: Activity Is Based on the Peugeot Diesel

Avoiding layoffs is the major current preoccupation of Peugeot-Lille, the oldest French manufacturer of diesel engines (2,500 employees today, after a high point of 2,800 in 1976). Avoiding layoffs was not possible in September (3 days) or October (4 days), but there will be no problem in November and December.

The factory is currently working at 70 percent of capacity--about 650 engines per day, although it has produced 1,000. Its capacity even reached 1,300 units per day until July 1982, when it stopped building the old 305 engine which was replaced by the new, more powerful one produced in Tremery for the 305 and also for Talbot's Horizon and Citroen's BX.

On the day in 1977 when it was decided to build the new engine in a new factory, the Lille factory lost any real possibility of expanding since this new model is more or less Peugeot's major engine. And it lost it simply because of lack of space--it is tucked away in a densely populated area and surrounded by houses, while the Tremery factory was built in the middle of the forest.

A diesel specialist, Peugeot-Lille is now in the top-of-the-line market. The older, related products have been eliminated here.

This decision to specialize of course entails a risk, but it has been accompanied by an attempt to standardize, which reduces production costs, and to perform active quality-oriented research.

Peugeot-Lille benefits even more from the firm's decision to emphasize the diesel in its top-of-the-line models now that it has the turbo. Today, one 505 out of two sold is a diesel and the proportion rises to 70 percent for the 604.

The inroad that the 505 seems to have made today more than 3 years after launching its diesel version has finally made the Fives management rather optimistic. Several foreign contracts have reinforced this optimism with, in first place, the one signed with Ford, Peugeot-Lille's most important foreign client, which is renewing its equipment contract for its "Granada diesel" and has decided to install the "XD2P," one of Lille's products, in its brand new Sierra.

Lille engines are also assembled in Bombay by the Indian manufacturer, Mahindra. Since the end of 1979 Peugeot-Lille has been sending them complete engines in kits, at the rate of 15,000 per year now. They are also sent in smaller quantities to Uruguay where a local manufacturer assembles the 505's.

The contracts Peugeot won in the United States in 1981 with three taxi companies also benefit the Lille factory; 505 diesels have been chosen by taxi companies in New York, Los Angeles and Philadelphia.

Douvrin: An Uncertain Francaise de Mecanique

The failure of De Lorean did not make any waves at Francaise de Mecanique (FM) in Douvrin, supplier of the engine for the sportscar created by the American businessman. De Lorean's orders never surpassed a maximum of 80 units per day and when the factory stopped making them last January it was producing a total of about 3,200 engines per day.

This, therefore, is not the source of the uncertainty that FM has been experiencing for several months. No--if the programs had to be revised downwards 2 months ago (see LES ECHOS, 15 September 1982), it was uniquely because of the bleak market in French automobile manufacturing. And since then, FM has been charting its course as it goes.

The current level of vehicle registrations in France is higher than in 1979. But the number of foreign cars has increased by 23 percent from 1981 to 1982.

However, it was not so long ago that the factory was breaking records. In fact, it was last June, with 3,450 engines in one day. Never had FM produced so many in one day since its first day in April 1972 when the automobile industry came to the rescue of a region struck by the recession in coal.

#### A Limited "Slowdown"

Six months later, the factory is now producing no more than 2,745 engines per day. Its staff has decreased, although there has been no effect on the "permanent employees" who are almost as numerous today as during the record period last summer (4,739 employees in November, 4,778 last June). The 70 or so individuals "loaned" by Peugeot and Renault have gone back to their original factories and FM, which has employed as many as several hundred temporary workers and employees under a limited duration contract, has hardly a single one now.

This is a limited "slowdown," especially because until now FM has succeeded in not resorting to partial layoffs, although this possibility has not been completely eliminated.

However, this "uncertainty" has not affected all of the factory's activities, because FM does not manufacture only engines. A great deal of stability and even a tendency to increase slightly characterize the operation of its foundry, which produces 10,200 crankshafts each day (9,000 at the end of 1981) and 28 cylinder sleeves for its own uses and for Renault, and 8,500 manifolds and safety devices (a little over 6,000 in December 1981) for Peugeot and Renault. The success of the R-9 has obviously given some work to the Douvrin factory in this last area.

#### Demand Has Declined

The activity of a factory such as FM definitely depends on the success of a particular model, even though this same model equips cars of different makes.

Unfortunately for FM, the R-9's engine is not one of its products. But the opposite is true of the Citroen BX, Visa, Chrono and GT, the LNA 11 E and 11 RE. If the initial success of these cars continues, this will be to the advantage of the FM's basic model, the "X," which is used in all of them in its different versions, from 954 to 1,360 cubic centimeters, and is also installed in Peugeot-104's, Renault 14's, Citroen Visa Supers and Talbot Sambas.

The introduction of this last model at the end of 1981 increased the production of the "X" from 1,740 to 2,000 units/day. It has now fallen back to 1,800 per day.

Production of the 2-liter and 2.2-liter which are used respectively in the R-20 TS's, Fuegos, TX's and GTX's, CX Relfexes and Athenas, as well as in the fuel injection R-20's, TX's and Peugeot 505's, has been quite respectably maintained at a little over 400 per day, including 35 in "subassembly" form to be assembled. This corresponds to the margin of increase that had been foreseen at the end of last year.

This leaves the diesels, the J-852's and J 8S's (R-18 D, R-20 D, Jeep Renault, and Renault Master and Trafic vans) and the turbo (R-20 DT, R-30 DT and the very recent Fuego diesel Turbo). At the end of 1981 FM produced 830 per day, including about 60 turbos, but only 410 in all are produced at present.

"Demand has dropped considerably," it was stated at FM, where it is said that the temptation to buy a diesel car is perhaps not standing up well against the price of diesel fuel.

As for the six cylinders, the top-of-the-line model built for the French-Swedish firm PRV (Peugeot-Renault-Volvo), with its production cut, as we saw, by the De Lorean orders, has remained confident with 130 units/day (170 at the end of 1981) and owes much of this to Volvo.

A period of doubts and uncertainties, but there is nevertheless no lack of hope for this firm which, after all, prides itself on having increased its staff by 560 in 1 year, something that does not happen often in the area, and whose 1982 turnover should slightly improve upon the 3.5 billion francs taken in in 1981 (2.7 billion in 1980).

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## DIFFERING VIEWS, POLICIES OF FLEMISH, WALLOON SOCIALISTS

Brussels LE SOIR in French 20/21 Nov 82 p 8

[Article by Jacques van Solinge: "Belgium: Two Strategies, One Objective"]

[Text] Since 11 October 1978, Belgium has had two Socialist parties. But the simultaneous existence of a Socialist Party [PS] and a Socialistische Partij [SP] is due neither to historical circumstances nor to insurmountable ideological differences. It is nothing more than a reflection of the two-community reality in our country. Both parties have been on the opposition bench since the last parliamentary elections.

In any case, on a practical level this distance from power is felt differently by the two parties. The PS is not totally excluded from the decisionmaking apparatus due to its dominant position within the French community and the Walloon region. Five of the nine members of the two executive bodies belong to the PS and with the support of small groups of allies the party controls both houses. Furthermore, the PS is represented on the permanent delegations of the five provinces in which it ran. Finally, it benefits from a solid local representation established through 69 absolute majorities, often won in large or average size communities.

As for the SP, it exists in a totally different context. With only two of the nine members of the Flemish executive body, it hardly has the means to mount an effective opposition to the Christian and Liberal representatives of the "national majority." Its representation on the permanent delegations remains small: five out of 27 votes. On the local level, it has more community representatives than previously, but they often remain confined to their role as the opposition.

In view of the circumstances, it is therefore normal for the two parties to develop different but not conflicting strategies, with the goal of each being to occupy as wide a field as possible within its own community. Guy Spitaels

and Karel Van Miert have discerned the tendencies and aspirations of their fellow citizens without encountering the slightest unitarian reaction. Each recognizes the other's desire to identify himself with his community and tries not to interfere with his neighbor on the same floor--for the offices of the two presidents are only about 30 meters apart on the third floor of 13 Boulevard de l'Empereur.

Although they are neighbors, any contact between the two men is often merely accidental. It is perhaps for this reason that there are no confrontations. Nevertheless, there is no lack of subjects for disagreement: Cockerill Sambre, port work, the future of Brussels, the implementation of language laws, etc. Indeed, the leaders of the two parties only work together on a case-by-case basis. The PS and the SP live their own lives while still considering that they have privileged access to one another. And, these lives take the form of different approaches to problems which, in short, are completely identical.

First of all, let us take a look at the consistencies in PS activities.

The party intends to maintain its pressure for a furthering of state reform. President Spitaels can obviously take advantage of the massive votes issuing from the party congresses themselves even though outside of Parliament some Brussels citizens are showing definite reservations. Thus, within the party offices, no one seems to miss the former PSB [Belgian Socialist Party] or want to go back to before the August 1980 legislation.

#### Employment A Priority

In the area of social and economic issues, the PS is continuing to draft bills and decrees based on the conclusions of the congress: "Reform and act." On several occasions, President Spitaels has stressed his desire to break with the policy being conducted by most European administrations at present and to give a better indication of the "difference" and the "identity" of the Socialist movement while still taking the demands of the economic crisis into consideration. For example, this is what has brought him to stress the idea of selective recovery. The brutal deflationary policies being conducted by rightwing governments, as in Great Britain, are only crushing domestic demand and swelling the ranks of unemployment. As for the policy of overall consumer recovery conducted during the first months of Pierre Mauroy's administration in France, it has failed even if only because the international situation is influenced more greatly by Friedmann's brutal self-interest than by Keynes' humanistic generosity.

Guy Spitaels and his party are therefore trying to draft formulas capable of both restarting the economic machine and curbing the social scourge of unemployment. This is the origin of the idea of bringing effort to bear on certain job producing sectors of the economy such as construction.

The PS is still just as much of a candidate as it was previously. But it plans to hold discussions with possible partners in government only on the basis of clear and defined positions. Indeed, this is the only way for the Socialists to avoid confusing genres and losing their identity.

As for the "progressive rally," it has not been forgotten, although this idea seems to be yielding to the concept of the "majority for progress." On these grounds, the experiment in collaboration between the PS and Ecolo in Liege which will begin on next 1 January will be watched closely on the Boulevard de l'Empereur.

#### The SP's Long March

To the SP, the policy of openness obviously presents itself in a very different context, if only because of the Socialist movement's minority position and the often massive weight of the Christian organizations. For the young party representatives and officers who initiated the Doorbraak demonstration, the operation which has been launched is a long term one and one which, in the immediate future, involves a change in mentality within the party itself. The SP will not be able to rally hordes of new members to its cause overnight, especially not from among youths from non-Socialist backgrounds. It is interesting to note that in the last local elections, the party had much better results with slates openly marked just SP than with coalition slates.

Also on the subject of the local elections, the SP can congratulate itself on having geographically extended its network of local representatives, growing, and sometimes significantly, in areas where it was weak or non-existent. Having so far only the role played by its young representatives, particularly in the debate on special powers, on which to congratulate itself, the SP hopes to be as lucky with its new local councillors.

#### More Priority to Foreign Affairs

As far as their program is concerned, the SP has launched a lengthy project to draft and mature an ambitious medium- and long-term plan entitled "Economic Alternative." The discussions in local districts will start at the beginning of next year and should close with the organization of a big congress for a decision at the end of 1983. This "alternative plan" will include timely responses to current problems, but party leaders feel that it is advisable to define a general framework first.

In the recent past, the Flemish Socialists have given the rather ridiculous impression of being concerned only with problems of foreign policy in the first place; the SP against missiles, the SP against Mobutu. These themes did receive a certain amount of response from a rather significant share of young Flemish intellectuals. However, following the example of the PS, Karel Van Miert's party felt that it was essential to first draft original formulas to combat the effects of the economic crisis. And, in the north as in the south, the search is based on safeguarding employment and a total rejection of monetarist theories.

In short, both Socialist parties are trying to take advantage of their forced recovery period in the opposition to freshen up their program and their methods. There is nothing to indicate whether this attempt at "aggiornamento" [updating] will be a success. The constraints of the economic crisis and of the past limit the margin for maneuvering.

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## PURPOSES OF GOVERNMENT'S FAR-EAST POLICY QUESTIONED

Paris POLITIQUE INTERNATIONALE in French Autumn 1982 pp 175-187

[Article by Francois Joyaux, professor at the National Institute of Oriental Languages and Civilizations (Paris III), editor of MONDES ASIATIQUES magazine, the author, among other publications, of "La Chine et le reglement du premier conflit d'Indochine--Geneve 1954" [China and the Settlement of the First Indochina Conflict--Geneva 1954], Publications de la Sorbonne, 1979; "La nouvelle question d'Extreme-Orient" [The New Far-East Question], Payot, 1980: "A New French Far-East Policy?"]

[Text] It is undeniable that the French Government has really been active in the Far East since the socialists-communists have been in power. Not only has President Mitterrand paid an official visit to Japan, but Mr Cheysson, Mr Jobert and other ministers have also combed the entire region, not to mention more special envoys such as Mr Regis Debray (was that really necessary?). Even if the Asian leaders seem to be in less of a hurry to visit "socialist France," it is certain that such diplomatic activity--even though it is not very orderly and well thought out--is rather a good thing. Nothing is ever gained by being absent.

Of course, the new president, a man of the Fourth Republic, essentially oriented toward the domestic political "process," does not appear spontaneously attracted by great international problems, especially if they are in the Far East. But it is no less clear that his administration includes men who are really interested in that part of the world: not only his minister of foreign affairs, Mr Cheysson, but some of his advisers as well, such as Mr Attali (with ideas about everything else, why wouldn't he also have some about Asia and the Pacific?), Mr Sautter (whose economic studies on Japan have been appreciated<sup>1</sup>), and still others.

Let us assume then that, at the outset, there is a real desire to update French policy in Asia. Consequently, the question immediately arises as to what that region's place will be among the international concerns of France, what our goals there may be, what resources will be allocated for that purpose and how they will be used. In short, we consider it essential to ponder this policy before launching it (or rather, relaunching it). Let's hope that this has been done.

It seems to us that there are two ways of determining a foreign policy. Either examine the situation as it appears and deduce therefrom those actions which are possible and those which are not. Or proceed from ideas and, on the basis

that such ideas are considered good, to act as though they were applicable. It is obviously this second approach which the socialist-communist government chose, at least initially. You can tell yourself that the People's Republic of China would be a very fine country if it respected human rights and that therefore you will do everything so that it respects them. You can tell yourself that Korea should be unified and that therefore you will strive to induce North and South Korean supporters to follow that path. You can tell yourself that Japan is being unreasonable by flooding our markets with such low-priced goods without opening its markets to us and that therefore you will ask it to do so. But there you are; China is a communist state in which human rights will never be respected, the North Koreans refuse to recognize the existence of South Korea and Japan has the means to flood our markets without really opening its own to us. To approach the world as you would like it to be is to approach it backwards, i.e., to lay yourself open to the possibility of understanding nothing therein and not succeeding therein in any way. Among the French socialists, there were a few admirers of Mao Zedong (when he was piling up, in the case of the economy, one mistake after another): They should not forget his criticism "of leftist phrasemakers ... who take their fantasies for realities" ("On Practical Methods," 1937).

Having raised this point of methods, what might our goals in the Far East be? Personally, we see only one: protecting and, if possible, increasing the interests and influence of France in the region. Despite its human importance--one-third of the planet--the Far East is not as vital a region to France as the Middle East or Africa may be. Neither our supplies of raw materials or energy nor our basic markets nor our national security are directly at stake there. It is nevertheless true that, except at the cost of withering away, France cannot limit itself to the shores of the Mediterranean and the Atlantic. In many circles, including some among the socialists, there are those who remind us of the growing importance of the Asia-Pacific region. We can only be glad for this. As a permanent member of the Security Council, France, out of respect for the sovereignty of all nations, has something to say about everything affecting a world order in which the Far East will necessarily play a growing role. Protecting and increasing the influence of France implies that, attentive to the changes in Asia, France should appear permanently therein as a source--indeed as a force--of realistic, just proposals. There is no need to point out that if we want to lend sufficient credibility to this force of proposal, it must be based on unquestionable independence. Protecting and increasing the interests of France implies that, parallel to this political role, we should engage in a bolder and more tenacious trade strategy in the region than in the past, a strategy that will make France the third- or fourth-ranking supplier of those countries.

All that, disgruntled people will not fail to object, requires resources. Does France have them? Yes and no. It would obviously be childish to try to compare the human, economic, financial or military resources of France to those of the two superpowers, which unfortunately tend to make the rules in the Far East as elsewhere. But it is precisely those two states' extravagant resources which make many people suspicious of them. There lie the opportunity and the means for France: maintaining strict independence from Washington (which does not rule out an alliance) and Moscow (which does not rule out appropriate bilateral relations), and basing our moral authority on such independence. We definitely have the resources for that.

Some of our cosmopolitan elite, on both the right and the left, believe that such a policy should be defined above all on the European level. There have always been fine minds who have felt ill at ease in the national setting and who dreamed only of "internationals," whether they were party, cultural, religious or financial organizations. There is no denying the utility of a certain coordination of West European efforts in the Far East; we will come back to this. But to believe that the Germans or the British will take it upon themselves to defend the interests of France, or even to put so-called European interests before their own in that region, is outright utopianism. Not only can the question of resources not be resolved in the supranational context of Europe, it becomes more complicated because the basic capital of France, its independence, totally evaporates in that context.

In the light of these few ideas, which have been too quickly summarized, what assessment can be made of the first months of socialist-communist management of Far-East policy?

The new government has obviously tried hard to intensify our relations with countries, both large and smaller, with which Giscardian diplomacy, up to this point, had barely been active. There is certainly the concern for systematically doing the opposite of what had been done under the previous government and the spirit in which this new course has been determined can only be regretted. But results have been achieved and that is perhaps the important thing.

It had become urgent for France to reactivate its dialogue with Japan. Thanks to President Mitterrand's dramatic visit in April 1982, this has now been done. It was also urgent for France (but this is true of the entire West) to stop viewing relations with that country as a strictly economic problem, to approach it from a political standpoint: This was actually one of President Mitterrand's claims in Tokyo--for which he can only be given credit. Similarly, French-Indian relations have been renewed, on the political level in particular, as a result of Mr Cheysson's various visits to New Delhi--this is also positive. The new government is also engaged in great diplomatic activity in Southeast Asia and Korea. And it is rumored that President Mitterrand will visit India, South Korea, China and Indonesia in the coming months. Such notable diplomatic activity is all the more commendable since, at the same time, the domestic political, economic and social situation continues to deteriorate.

We should also be grateful to the new government for having understood rather quickly the importance of foreign markets to France. Neither the socialists nor the communists, supposed defenders of the working masses, were prepared for this aspect of "foreign affairs," traditionally considered the "domain of employers." The hostility of a large part of the PS rank and file to nuclear power, to arms exports, its former statements concerning countries such as South Korea, not to mention the attitude of the PC, boded ill for the future. It must be acknowledged that the worst has been avoided. If our foreign trade, 1 year after the change of government, is in a disastrous state, it is essentially due to domestic causes and the lack of confidence abroad in the socialist-communist government. But overall, our trade negotiations have continued, including those involving arms and those initiated with countries sensitive to socialism, such as South Korea. Some negotiations, underway for a long time,

it is true, have even been crowned with success, such as the sale of Mirage 2000's to India and of nuclear power plants to South Korea. The French communist ministers are supportive of a government that is negotiating arms supplies to the People's Republic of China and to South Korea. By a twist of fate, isn't Mr Fiterman himself engaged in negotiations with Seoul's "puppet government" to sell it "his" TGV [train a grande vitesse: high-speed train]? Such realism cannot fail to be noticed ... and has surely been noticed by some rank-and-file members of both parties.

However, certain matters concerning the Far East, and which are not the least important, have obviously not been taken up as they could and should have been. The most conspicuous is perhaps the matter of China.

Peking had undeniably been disappointed by Mr Giscard d'Estaing, particularly when he refused, under pressure from the USSR, to sell certain arms to China. But Mr Mitterrand's rise to power did not delight the Peking government either, which was worried about the socialist uproar over human rights and, even more, the communist handicap. Very wisely, China demanded a showdown.

That is when the "Bellefroid affair" occurred.<sup>2</sup> It is absolutely distressing that this could be considered an "affair." But it would be unseemly and rather unwise for France to go into detail. China chose to exploit this "affair" at the very time, it may be recalled, that Mr Jobert was arriving in Peking (November 1981): The socialists thus harvested the first fruits of their naive attitude concerning human rights. But after all, what did they expect? To transform communist China into a vacation resort? One of two choices must be made: Either to recognize a state or not to recognize it. If it is recognized, that implies, to be realistic, accepting it as it is; i.e., in this case, one that is built on millions of past, present and future political prisoners and deaths. But hoping to transform a totalitarian state into a democratic state and, moreover, basing our policy concerning it on that idea was childish.

In recent months, the situation seems to have corrected itself. The Chinese question, following that trial, which could have been avoided, is apparently being approached more sensibly. The appointment of a new ambassador to Peking, Mr Malo, a career diplomat who is both competent and realistic and who is well aware that a China policy cannot be conducted with eccentric blows of the "Bellefroid affair" type, is a step in the right direction, as is the reopening of debate on major issues, including the sale of arms.

French-Chinese difficulties nevertheless derive from other problems, which need to be mentioned briefly.

The French-Indian rapprochement following the arrival of the socialists-communists in power--a rapprochement which, we repeat, we consider very positive--surely contributed to the tension with China. The Peking government's traditional animosity toward India, which it considers a competitor in the Third World and, above all, a quasi-ally of the USSR in Asia, is sufficiently well known to warrant a minimum of diplomatic precaution. But that is probably not the most serious problem. China would obviously prefer that it was France, and not the USSR, which snapped up the fighter-plane deal that New Delhi has just concluded with Paris. And then isn't India itself, worried about Soviet policy in Central Asia, in the process of reorganizing its relations with Washington?

More complicated is the Indochina question. It is complicated in terms of French-Chinese relations and also in terms of France's overall policy in the Far East.

Simply stated, two attitudes toward Vietnam are conceivable.

The first involves considering its intervention in Cambodia as unacceptable and rejecting all relations with it as long as it has not withdrawn its troops and left behind a genuinely Cambodian government to exercise its sovereignty there with complete independence. Morally, this is a very respectable position. But politically, it is a dead end and therefore, in our opinion, to be rejected; for several reasons. On one hand, why give more importance to the Cambodian question than to the Laotian question, which we do not see as fundamentally different? In Laos, as in Cambodia, it is a case of a government which is the "puppet" of Vietnam and which relies on the massive presence of Vietnamese troops. On the other hand, it is to be feared that the situation in Cambodia (as in Laos) is irreversible. It is possible that one day Vietnam will withdraw most or even all of its troops. But that will in no way change the fact that Cambodia is now a satellite of Vietnam and that, in our opinion--we hope we are wrong--there is every chance that it will continue to be. We said and wrote this in 1979 and 3 years later, this pessimistic prediction has more or less been confirmed. Thus it does not seem to us that any policy in the area can be based on the hope of reversing the situation, which nothing suggests. Finally, we should note that if we reject all relations with Vietnam as long as it has not withdrawn from Cambodia (and why not from Laos?), all relations with the USSR must also be rejected as long as it has not withdrawn from Afghanistan (and elsewhere). Once again, the world is the way it is--i.e., very hard--and we have to do what we can with what we have.

The second attitude, in contrast, involves considering that the more we refuse to maintain relations with Vietnam, the more securely we lash it to the Soviet galley, which is, coldly considered, more serious than the Vietnamese hold on Cambodia. We must bear in mind the exceptional progress that Soviet strategy is making as a result of this situation: It finally has access to the warm waters of the south, near the straits of the East Indies. The encirclement of China has been considerably reinforced; the West's problems have accordingly been increased. Common sense therefore seems to demand doing everything possible to wean Vietnam from the USSR before it is too late and forcing it to follow a more balanced policy between Moscow and Peking. This is in the interest of both France and China.

It seems to us that this is the path which France has chosen and, in our opinion, it can only be congratulated for doing so. But it is still necessary to agree exactly on goals and procedures. Let's take the case of that loan for 20 million to the Hanoi government, for which China criticized France so strongly. It is quite certain that it makes no sense unless it was intended to initiate, modestly but clearly, a process for freeing Vietnam from the USSR. But in fact, the French Government, incorrigible, apparently talked to Hanoi instead about respecting human rights. This would then be a mistaken major maneuver, for while complicating our relations with China, the gesture would very obviously be doomed to a regrettable failure. Moreover, in order to have any effect, that loan would have to be followed by many others, both French and allied,

including some from the United States and Japan one day, otherwise it would run the risk of becoming a Giscardian "gadget." But at present, nothing suggests that the "follow-up" of the matter has been considered.

Similarly, the socialist-communist government has decided to reestablish diplomatic relations with Vientiane by sending it a new ambassador, Mr Bouillane de Lacoste. The principle, from the standpoint which we mentioned above, is perfectly admissible. But on the other hand, what guarantee have we obtained concerning the independence of Laos from Vietnam? Apparently none. Once again, we are doing Hanoi a favor without having required anything in return.

This is so true that, overall, we might wonder whether, in this matter, the Socialist Party is conducting a foreign policy or a domestic policy. As much as we find that certain aims of the new government are a step in the right direction--we have sufficiently pointed this out--they are equally profoundly contemptible if, without regard for their actual international results, they have no real purpose other than to satisfy the PCF in order to obtain its neutrality domestically. This is unfortunately the impression which, for the present, emerges too often from the government's actions in Indochina.

The recent policy of France concerning Korea, illustrated by Mr Cheysson's visit to Seoul in August, would tend to make us think likewise.

Exactly what does the socialist-communist government want in Korea? The communists quite simply demand recognition of North Korea. The socialists, again giving priority to human rights, are basically opposed to South Korea but the least blind among them understand that North Korea is not paradise. Fully confident of their traditions of compromise between opposed "sensibilities," they imagine they can simultaneously maintain diplomatic relations with the two Koreas and even, why not, promote a dialogue between Pyong Yang and Seoul. To soften the shock which recognition of Pyong Yang by Paris would be for Seoul, they have even considered finding a socialist country that would agree to recognize South Korea in order to launch, by means of these crossed recognitions, the dynamics of detente on the Korean Peninsula. These ideas are excellent, but they have the major drawback of being impossible. Once again, the basis of procedure is not the world such as it is, but the world such as they would like it to be.

The world such as it is, is a South Korea that accepts Western governments recognizing North Korea so long as socialist governments in turn recognize South Korea and accept the presence of the two governments in the United Nations; whereas North Korea rejects all recognition of South Korea and any coexistence of the two republics in the United Nations. The world such as it is, is also a South Korea which, despite its economy's present difficulties deriving from the world crisis--the crisis is worldwide, the French socialists now know that--represents an expanding market, a nonnegligible detail when our balance of payments is in the state that it has been in recent months.

The idea of politicizing our relations with Seoul (as well as with Tokyo) seems excellent to us. By politicizing, we mean: considering South Korea

not only as a market or a supplier, indeed as a competitor, but rather as a state whose security problems and foreign policy, in the Third World and elsewhere, are of interest to us. It was not normal for French-South Korean relations to be solely commercial. Discussing with South Korea, our ally for 30 years, the future of Eastern Asia or resuming negotiations with it regarding arms supplies is absolutely commendable (especially considering chafed "sensibilities"). Beyond that, there is danger, a twofold danger.

The first danger is that possible recognition of North Korea might actually be only a domestic political move for the sole purpose of satisfying the PCF. The fact that candidate Mitterrand tried to win a few extra communist votes by adding a visit to Pyongyang to his election campaign was already shocking. But today, if the socialists are thinking of recognizing the government of Kim Il Sung in an attempt to appease their communist partners, this would be absolutely shameful. We wish to be properly understood. In itself, there is nothing inadmissible about recognition of a communist state, even one as execrable as the North Korean regime--in that case, the socialists would definitely have to shut their eyes concerning human rights--if it corresponds to a clear national interest. A model example of this was the recognition of the People's Republic of China by General de Gaulle, which satisfied two specific motives: balancing detente with the USSR and enabling France to be heard concerning Indochina. On the other hand, such recognition is inadmissible if its only ambition is to gain some illusory respite domestically by offering the PCF a decision (among many others) that would serve only the interests of the USSR.

The second danger is that all this commotion surrounding the Korean question may lead to an ignominious status quo. It seems highly unlikely that France could convince an important communist state to recognize South Korea. Consequently, doesn't it risk, under pressure from the PCF and a few idealistic rank-and-file socialists, being forced to recognize North Korea without any compensation for South Korea? At an excessive commercial cost, the diplomatic benefit would be nil. We must yield to obvious facts: 1982 is not 1964. Yesterday, the People's Republic of China fit in with General de Gaulle's foreign policy; but today, no purpose would be served by demonstrating that recognition of North Korea is in keeping with President Mitterrand's foreign policy. Or, a second possibility, realism will prevail and things will stay as they are (for which we should be thankful); but then, what was the purpose of stirring things up? The matter would appear to be an additional blunder, i.e., a diplomatic mistake which can only weaken new French policy in the Far East. Overall, all of that gives the impression of a blind alley into which it would have been preferable not to turn. The newspaper LE MONDE, which we know is not really antisocialist, itself wrote: "It is to the advantage of French diplomacy ... to advance on such ground only with caution."<sup>3</sup> That is the least that could be said.

Regarding the Japanese question, we would like to quickly mention a final aspect of our current foreign policy, an aspect which risks constituting its main weakness.

Nearly 10 years ago, commenting on French policy at the time, we were already wishing that Japan occupied a more important place therein: "It is obvious,"

we wrote, "that the future of the region will closely depend on these two centers of Tokyo and Peking. Wouldn't it therefore be desirable to define our Asian policy as much--perhaps even more, why not?--in relation to Japanese particulars as in relation to Chinese particulars?"<sup>4</sup> The fact that the socialist-communist government today says that it wishes to intensify relations between France and Japan and, above all, to put them on a political level, seems to us, as we have already pointed out, a step in the right direction. This is not only necessary for our Asian policy, but more generally for our world policy. And the fact that President Mitterrand chose Tokyo as his first stop on that continent, without starting by carrying out the disappointing ritual of visiting Peking, is completely to his credit.

However, Japan nevertheless poses, for France as well as for every other Western European country, the same well-known economic problem. The fact of negotiating with Tokyo, including political issues common to the entire Western world, may help to reach solutions; whereas dealing on an exclusively commercial level may well turn out, for us, to be very difficult and rather unfeasible. But in any case, is it wise to expect from negotiations a settlement of the trade dispute between Japan and Western Europe? Several years ago, Mr Sautter wrote: "If European countries are unable to export sufficiently to Japan in the future, it will be either because Japan erects more or less obvious obstacles or because European currencies are overvalued in relation to the yen or the yen is undervalued in relation to European currencies."<sup>5</sup> It is possible that all these factors are playing a role; although at the franc's rate of devaluation for a year, the monetary factor is probably no longer the main obstacle! And our author concludes: "Japan must understand that from now on there is no longer any need, to bolster the dynamism of its industry, for an undervalued currency and more or less clandestine protective measures." Actually, we find that proceeding from the idea that Japan must understand is, once again, approaching the problem in the wrong way. What must particularly be understood, without trying to deny the existence of these particular obstacles, is that if the government keeps trying to increase the expenses of businesses indefinitely and to give economic circles every reason not to undertake anything--the problem, as is apparent, goes far beyond the Japanese question--the existing trade imbalance between the two countries can only grow. Moreover, initiating vast negotiations with Japan just when our economy is collapsing does not seem very advisable.

This question also underlies our entire foreign policy, which could not be dynamic without an expanding economy. If General de Gaulle's policy of independence had some success, particularly with regard to the Third World, it was certainly due to the man's personal prestige and the stamp of independence which he gave to his program, but also to the positive results of the economic recovery undertaken by the Fifth Republic. The question of resources, which we mentioned earlier, is not posed in absolute terms--France can do this because it costs only so much, but it cannot do that because it costs so much--but in relative terms: Expansion allows a dynamic foreign policy, whereas recession precludes it. Thus from this standpoint, optimism is out of place.

Even if some of these aims seem justified, the socialist-communist government can therefore expect considerable difficulties. The visit of the Thai prime minister to Paris in April or that of President Mitterrand to Tokyo, among



others, have already shown the extent of the reluctance, indeed the resolute opposition, that will have to be overcome. But in this forest of obstacles, we consider two particularly serious.

The first is political: It is due to the presence of communists in the government, which constitutes a twofold danger. On one hand, there is the risk that French diplomacy will be aimed in directions in which the interests of the USSR will be served better than that of France. The problem is particularly acute in the case of Indochina and Korea. On the other hand, it makes the new French Government suspect by all our natural and traditional allies, whether they are Japan, the ASEAN countries and even the People's Republic of China, in spite of the current normalization between the Chinese and French PC's. Our feeling is that the best intentions in the world will unfortunately die over this issue.

The second obstacle is economic and is due to the aims and results of the socialist-communist economic policy. The government's petitions of principle regarding the need for reorganizing North-South relations may be attractive and are not all without foundation. But the main point, for the time being, nevertheless remains that France is sinking deeper into recession. The result will inevitably be two closely linked consequences: On one hand, a lack of resources and, on the other, a governmental polarization over the domestic crisis, which will quite naturally lead to sacrificing the Far-East policy for the benefit of sectors more urgently in need.

Consequently, how can the question which is the title of this article be answered? Quite simply, that a desire to renew our Far-East policy undoubtedly exists among the socialists and even that some choices considered are attractive: Regardless of the political future, they deserve to be examined thoroughly. But that the lack of realism characterizing many other choices, the handicap represented by the presence of communists in the government and the economic crisis into which the country is sinking unfortunately do not justify any optimism concerning the success of this new policy.

#### FOOTNOTES

1. C. Sautter, "Japon, le prix de la puissance" [Japan, the Price of Power], Paris, le Seuil, 1973, 315 pp.
2. Arrest of the Chinese fiancée of a press attache of the French Embassy in Peking, Mr Bellefroid; she was accused of belonging to a group opposed to the government.
3. LE MONDE, 31 July 1982.
4. F. Joyaux, "Asie: La France laisse-t-elle passer sa chance?" [Asia: Is France Letting its Chance Go by?], PREUVES, No 15, 1973, p 99.
5. Op. cit., p 286.

## KRASUCKI ON PATRONAT, GOVERNMENT POLICIES, CGT-CFDT TIES

Paris LE MONDE in French 23 Nov 82 pp 1, 44

[Interview with Henri Krasucki, CGT secretary general, by Jean-Pierre Dumont and Michel Noblecourt; date and place not specified]

[Text] Following the failure on Friday evening of the negotiations on unemployment insurance, Pierre Beregovoy, minister of social affairs and national solidarity, met with all the labor unions at 1600 hours on 22 November. He told Radio Monte Carlo: "It is not a question of reducing the benefits that will be received by the unemployed who need them."

In the interview granted to us, Henri Krasucki emphasizes that "there can be no question of reducing benefits for any of the workers." He regards certain government intentions as "unacceptable."

In another article in today's issue, Yvon Gattaz, chairman of the CNPF [National Council of French Employers], says that to help the "truly unemployed," he is hoping for a new unemployment insurance system on 1 February 1983 that will be "simpler and financially balanced in keeping with the possibilities of our firms, but still administered jointly by the firms and the wage earners."

[Question] Following the CNPF's termination of the UNEDIC [National Union for Employment in Industry and Commerce] agreement and the failure of the negotiations on Friday, what is your judgment of the employers?

[Answer] By that unilateral and brutal decision, the CNPF shows that it has learned nothing and that it has forgotten none of its former practices. We have been saying for years that the CNPF wants to retreat from the path of social progress, liquidate our system of social protection, and return gradually to the notion of public welfare and--why not?--the system of soup kitchens.

[Question] Are you not partly responsible for the failure, since the situation in France requires cutbacks greater than those you have proposed?

[Answer] The people responsible for the country's condition are those who have managed it so badly for so long. After the CNPF broke the contract, the CGT did everything to maintain a united and solid front. At our suggestion, the union delegations met and eventually came up with proposals for savings on the order of 10 billion francs, and that is a sizable amount. We took into account certain measures being proposed by other unions, while they accepted several of our proposals: a decreasing ceiling on the highest benefits and the limiting of certain abuses by the employers.

[Question] What do you expect from the government?

[Answer] It is up to the government to act now. I have heard statements from two ministers. While recognizing the seriousness of the unions, they are announcing measures that are unacceptable to us. The union proposals are enough to ensure equilibrium in 1983. But for us, there can be no question either of reducing benefits for any of the workers--three-fourths of whom earn the SMIC [Interoccupational Minimum Growth Wage] and often less than that--or of excluding the unemployed, especially the young, from all benefits or harming early retirees.

[Question] These are the same economic difficulties that led the government to revise certain social security benefits. In criticizing those decisions, is the CGT rejecting the idea of a necessary regulation of social protection?

[Answer] We have criticized certain measures, but not all. And some changes, such as the flat payment for hospital care, have not been decided on. On the whole, it is protective measures that are at issue, and a real social protection policy remains to be worked out. That being said, we go along with the talk about "rigor," but we are also asking the government to be consistent in working out its policy and more firm in carrying it out. It is true that there are cutbacks to be made, and we are proposing them when we advocate fighting waste, making better use of the hospitals, and so on.

[Question] Do you accept greater supervision of the benefits?

[Answer] Supervision? Yes, but that does not mean a reduction. There are two opposing schools: one is carrying on a rearguard action--its main idea being to restore a public welfare system, whereas one of this century's big achievements has been the establishment of a system of joint responsibility for social security--and the other wants to safeguard and improve that institution through savings and new resources.

[Question] Do you approve of the plan for reducing the national insurance contributions paid by employers by eliminating employer contributions to family allowances?

[Answer] The question deserves close study. As presented, that solution does not agree with the CGT's views concerning the financing of social security. We feel that with a few minor exceptions, the current system is appropriate. I will remind you that according to European statistics, the wage costs of French firms (including nonwage labor costs) are lower than those borne by firms

in other neighboring countries. That being said, we have never ruled out increased financial participation by the state--that is, a degree of funding through taxation. But the real problem then becomes that of who should pay. Those earning low and medium-range wages? That would mean turning our backs on social progress.

[Question] Do you share the view of certain ministers that reducing the firms' costs is not a gift to the employers?

[Answer] If we are going to make a distinction between the employers and the firms, let us go all the way and alter the communicating vessels between the two: improved wealth when the firm makes a profit and protected wealth when it goes bankrupt. We go along with government aid in specific cases when there is justification for it and controls are set up--including control by the union.

Slippage But no Change in Course

[Question] The shift in government policy does not strike you as a change in course. Do you feel that the chance of leftist austerity after the municipal elections still exists?

[Answer] There was a shift that led us to make our concern known, because we do not think that the economic problems can be solved by taking away from the purchasing power of the wage earners and making things generally easier for the firms--often in the form of outright grants and without the necessary guarantees. There has been a risk of slippage and even actual slippage. But that does not mean a change in course. We have therefore acted firmly and at the same time with a sense of responsibility. Our responsibility as a union is distinct from that of the government, but we hope that the government succeeds. We have both a concern for the interests of the workers--especially those experiencing the most difficulty--and a will to see the current experiment really move forward.

You asked me what would happen after the municipal elections. We are not there yet. But I do not foresee a change in course. It is in the interest of the entire Left for the economic and social measures that have now been adopted not to disappoint the workers either before or after the elections. For the time being, action must be taken to satisfy their needs and avoid the negative consequences of questionable measures.

[Question] Isn't the mood already one of disappointment?

[Answer] We have taken steps designed to let the workers express themselves. In September, we sponsored a national 2-week period of information, discussion, mobilization, and action that was only the starting point for getting things moving democratically. The objective is that the workers should be able to feel responsible for their own fate. In that sense, the 2-week campaign is continuing. I don't know of any similar initiative on the part of other union organizations. We must be able to say no when we do not agree--when things are not going right. The workers must make themselves heard, and to do that, they must talk loud enough.

But we are not in the same situation as before: we are not being faced by an institutional bloc consisting of the CNPF and the government. It does not exist. So nothing is definitely settled. And even the measures that we, along with the workers, consider negative, unfair, and unsatisfactory are not beyond remedy. We have a specific illustration of this in the SMIC: the government recently announced that the promises concerning purchasing power would not be kept. We reacted firmly, as everyone knows--without exaggerating but also without ambiguity. I note the prime minister's statements in which he said that those promises would eventually be kept. He confirmed those statements to us on Thursday. Although mistakes of that kind are not welcome, there is a change in government statements: nothing is frozen. Unlike the situation under Barre, who cared nothing for people carrying signs or their spokesmen, we have a government with which we may disagree but which leaves the way open for bringing about constructive changes thanks to the necessary intervention of the workers. As far as the SMIC is concerned, more recent statements suggest that there will be more procrastination. The disagreement has not been settled. We are maintaining our position of respect for the commitments made on 1 December.

The government has a program which is not the CGT's program. The government is not the CGT's government, and the CGT is not the union of this or any government. The government is under heavy pressure from the employers and other forces. It is natural that the workers should be the counterweight. Even with the most perfect government imaginable, union action would still be necessary.

#### Learning

In this situation, as we said at the 41st congress, everyone without exception is learning. Adjustments are necessary. The question is how, specifically, mass intervention by the workers should be planned and organized in this new context. Our attitude is guided by our knowledge of realities and by our close link with the workers. They must not renounce any form of union action, including the strike, because the problem is not whether or not to spare anyone. But on each issue and in each situation, it is necessary to find effective methods for solving the problems. The difficulties will not be resolved by government decision alone or by negotiations, which are nevertheless necessary. There must be intervention by the workers and utilization of their rights and of the positions acquired. Democracy is therefore a means of union action.

[Question] Is your relatively moderate reaction to the wage freeze not likely to create disillusionment and disappointment regarding union action among your own members?

[Answer] Our position is both firm and realistic. There is some discontent and dissatisfaction among some of the workers. The disillusionment being expressed is not with us but with government action. The workers want to correct what is wrong and obtain something better than what exists, but they also have a legitimate concern not to do anything that would help the Right. That leads us, along with them, to seek forms of intervention that will make their dissatisfaction known without hostility.

To really express the state of mind among the workers without running the risk of creating disillusionment with us, we are doing our best to discuss things

with the workers and consult them so as to define the exact nature of their demands and work out methods of action. It is not the union's role to make people happy by doing their work for them. It is the workers, collectively committed, who must win their happiness together. If we act in that way, the workers are not spectators but actual participants. This is a new form of union practice that must be brought to life. We do not exclude from those discussions any other union organizations that are willing to accept the verdict of those concerned.

[Question] Is the CGT also willing to make concessions and grant that the lost purchasing power will be recovered only partially and gradually during 1983?

[Answer] Disagreement over purchasing power remains. Taking away from the purchasing power of the workers is an injustice and a mistake. There are currently some changes that we are observing. But this does not mean that our organizations and the workers involved consider them adequate. It does show, however, that union action serves a purpose. We are not talking in a vacuum. We have interlocutors who are not insensitive to the state of mind among the workers. We keep track of what is happening and we evaluate, in each industry and each firm, the results that can be achieved.

#### Developing Social Economy

[Question] What are your other priorities as far as demands are concerned?

[Answer] We are also looking at the overall economic and social policy. The issue of purchasing power is a priority. But we have several objectives that govern every step forward: the fight against inflation and unemployment and for industrial development and for freedoms. The government has adopted real measures for combating inflation and has achieved results. There is room here for autonomous union action that can be combined with government action, as is provided for by law. That intervention by the workers is concerned not only with factory prices but also with cost formation. The cost of French products is often higher than in other countries, but wages are not the reason. By acting to reduce the cost of products, we are also helping to make them more competitive. The CGT has been involved in specific and effective action in this area for the past year. I feel that this should be talked about more, because it is something new and we are the only ones doing it.

The fight against unemployment calls for a number of actions, because the solution does not depend on a single measure. The basic action against unemployment obviously consists of creating jobs. That depends on the existence and growth of a domestic market and of a French industry that are both capable of responding better to needs. We fought for so many years under the rightwing governments and against the CNPF to oppose what we called the "trashing"--the industrial decline--that we are happy to note that the action we engaged in, often completely on our own, is now resulting in a new policy for reindustrializing the country. Will we agree with all the measures contemplated? That depends on discussion. But the fact is that the trend has been reversed, even if it is giving rise to contention and conflicts. We are also demanding a new

type of industrialization, since the very people defending free enterprise are showing scarcely any spirit as entrepreneurs. So alongside the nationalized sector and the private sector--which has its place--it is necessary to develop the social economy, particularly in the form of production cooperatives. The latter can play an active role in reviving industry. We are very active in this field: we are the spirit of enterprise!

[Question] Do you feel, as Le Garrec does, that reducing the workweek must be harmonized on the European level?

[Answer] We do not present the question in that way, because if it were posed in that way, everyone would wait for someone else to make the first move. Reducing the workweek is both a way of improving the quality of life and a possible means of reducing unemployment. We have never proposed a timetable for the introduction of the 35-hour workweek, because we feel that it is necessary to be effective and more pragmatic and to stick more closely to reality. If the 38-hour workweek we recommended had been adopted, jobs would have been created immediately. But we have never proposed a date for another stage in this process, because no one can say how the French economy is going to look--in 1984, for example. It is not possible to go on adopting general and uniform measures. Since the start, we have been active supporters of the solidarity contracts, which can make sizable reductions in the workweek possible. But it is unrealistic, with wages being what they are, to imagine that the workers will accept the idea of no compensation in the form of wages. On the other hand, it is possible to make progress--sometimes considerable progress--in various firms and certain industries.

[Question] Do you consider that new nationalizations are necessary without waiting for the next elections, as proposed by an official in the Communist Party?

[Answer] Although they do not go as far as the CGT's program, the nationalizations that have occurred result from universal suffrage and are sizable. For the moment, we say "Let us do a good job with the nationalizations that were desired" while sticking to the CGT's objectives. We will advance as life presents new issues. The nationalizations can become a truly effective tool, but this requires that the banks manage and orient credit in a different way and that the big industrial groups introduce democratic management--a change that requires a new mentality in the management of most of those firms--and that they work out a more aggressive policy. Those industrial groups are real points of support for a new industrial policy. That can be seen in the significant investments decided on and the projects announced by certain large industrial or service firms already nationalized or nationalized recently. New relations with the unions and the workers and dynamism or inventiveness constitute considerable reserves for accomplishing a lot and stimulating the country's entire economy.

[Question] Nearly 2 months after your meeting with Maire, how do you judge relations between the CGT and the CFDT?

[Answer] The meeting was useful, because it allowed each of us to see where his partner really stood. While noting the considerable differences between

our positions, we agreed to behave on both sides in such a way as not to aggravate them, paint them blacker than they are, or embellish them. It is a matter of being truthful on both sides, of not giving up either one's personality, but also of not aggravating the situation, because the interests of both unions and of the Left are at stake. The fact that the CFDT is maintaining its recentering and going along with a degree of austerity is not making things easier. But there are issues on which our viewpoints agree, and we are not giving up the idea of having relations. The more unity of action there is, the more it will be worth, but unity of action requires common objectives.

[Question] You have been secretary general of the CGT for 5 months. What assessment do you make of your confederation?

[Answer] Before our congress, we noted a drop in membership, but the situation stabilized in 1980, and there was a slight increase in 1981. The trend is the same in 1982, but it is slight. The results of the elections for the enterprise committees and so on are unequal, with some sizable gains and some losses that are also sizable in some cases. This is due to the new situation for everyone, and it is also linked to the quality of specific union action in this or that firm. We must be a union in the field, with deep roots--one that concerns itself above all else and permanently with the constant needs of the workers.

[Question] Maire is predicting a drop of about 3 points for the CGT in the elections for the labor conciliation boards. What do you think?

[Answer] My attitude is completely different. First of all, I do not predict. And if I did, I cannot see myself predicting a loss of a few points for another union. But what is at stake in the elections is of another dimension altogether. The important thing for the worker voters is to be well defended by the future members of the labor conciliation boards. With the tens of billions of old francs that have been restored to the wage earners by the labor conciliation boards, the balance sheet in favor of the CGT members of those boards speaks for itself. Something else is at stake on 8 December. The employers and the Right will scrutinize above all else the CGT's level of influence. We are therefore asking the wage earners to consider the consequences of their choice. A useful vote is a vote for the CGT.

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## TEXT OF REVISED CONSTITUTION

Lisbon DIARIO DE NOTICIAS in Portuguese 27 Aug 82 Supplement pp I-XX

[Compiled by Carlos Albino Guerreiro and Oscar Mascarenhas]

[Text] DIARIO DE NOTICIAS offers its readers this special supplement containing the next text of the Constitution of the Portuguese Republic, following its first revision. The changes in the original 1976 text, with explanatory notes next to the article, have been printed in a different typeface in a way which we think is clear. Temporary provisions of the Revision Law are also included, as well as a small guide article noting the transfer of the functions of the Revolutionary Council, now abolished.

## Preamble

On 25 April 1974, the Armed Forces Movement, completing the long resistance of the Portuguese people and interpreting their deep-seated feelings, overthrew the fascist regime.

Freeing Portugal from dictatorship, from oppression and from colonialism represented a revolutionary change and the beginning of an historic turning point for Portuguese society.

The revolution restored the basic rights and liberties of the Portuguese. Exercising these rights and liberties, legitimate representatives of the people assembled to draw up a constitution in keeping with the aspirations of the country.

The Constituent Assembly affirms the decision of the Portuguese people to protect national independence, to guarantee the basic rights of citizens, to establish the fundamental principles of democracy, to assure the primacy of a democratic state of law and to open the way for a socialist society, with respect for the will of the Portuguese people, with a view to constructing a freer, more just and more fraternal country.

The Constituent Assembly, which met in a plenary session on 2 April 1976, approves and decrees the following Constitution of the Portuguese Republic.

## Basic Principles

### Article 1 (Portuguese Republic)

Portugal is a sovereign republic, based on human dignity and the will of the people and committed to becoming a classless society.

### Article 2 (Democratic State of Law)

The Portuguese Republic is a democratic state of law based on the sovereignty of the people, with respect and guarantee for basic democratic rights and liberties and plurality of expression and political organization, for the purpose of assuring the transition to socialism through the achievement of social and cultural economic democracy and the intensification and participatory democracy.

(The reference "creation of conditions for the democratic exercise of power by the (Article No 2 eliminated), with working classes" has been deleted.)

### Article 3 (Sovereignty and Legality)

1. Indivisible and exclusive sovereignty lies with the people, who shall exercise it as prescribed by the constitution.
2. The government is subordinate to the constitution and is based on democratic legality.
3. The validity of the laws and other acts of state of autonomous regions and local government is subject to their conformance with the constitution.

(Article 2, referring to the Armed Forces Movement, has been eliminated.  
Article 3 becomes Section 2 of Article 10.)

### Article 4 (Portuguese Citizenship)

Portuguese citizens are all those considered as such by law or by international agreement.

### Article 5 (Territory)

1. Portugal comprises the territory historically defined on the European continent and the archipelagoes of the Azores and Madeira.
2. The extension and limits of territorial waters, exclusive economic zone and Portugal's rights to contiguous seabeds are defined by law.
3. The government does not cede any part of Portuguese territory or rights of sovereignty thereto, without prejudice to the rectification of borders.
4. The territory of Macao, under Portuguese administration, is governed by statutes appropriate to its special status.

(The order of Sections 2 and 3 has been changed.)

#### Article 6 (Unitary Government)

1. The government is a unitary whole and, in its organization, adheres to the principles of autonomy of local governments and democratic decentralization of public administration.
2. The archipelagoes of the Azores and Madeira constitute autonomous regions with their own political-administrative statutes and organs of government.

#### Article 7 (International Relations)

1. In international relations, Portugal is governed by the principles of national independence, with respect for human rights, the right of peoples to self-determination and to independence, equality among nations, the peaceful resolution of international conflicts, noninterference in the internal affairs of other nations and cooperation with all other peoples for the emancipation and progress of humanity.
2. Portugal advocates the abolition of all forms of imperialism, colonialism and aggression; general, simultaneous and verified disarmament; the dissolution of political-military blocs and the establishment of a system of collective security, in order to create an international order capable of assuring peace and justice in relations among peoples.
3. Portugal recognizes the right of peoples to rebellion against all forms of oppression, in particular against colonialism and imperialism, and shall maintain special ties of friendship and cooperation with Portuguese-speaking countries.

#### Article 8 (International Law)

1. The standards and principles of general or ordinary international law are an integral part of Portuguese law.
2. The continuing standards of regularly ratified or approved international agreements shall apply domestically following their official publication and as long as the Portuguese Government is a party to them internationally.
3. The standards established by the respective agencies of international organizations to which Portugal belongs shall directly apply domestically, since that is expressly stipulated in the respective constituent agreements.

#### Article 9 (Basic Tasks of Government)

The basic tasks of the government are:

- (a) Guaranteeing national independence and creating the political, economic, social and cultural conditions promoting such independence;
- (b) Guaranteeing basic rights and liberties and respect for the principles of a democratic state of law;

(c) Protecting political democracy and assuring the organized participation of the people in resolving national problems;

(d) Promoting the welfare and quality of life of the people, real equality among the Portuguese and the achievement of economic, social and cultural rights through the transformation of economic and social structures, namely the socialization of the principal means of production, and abolishing man's exploitation and oppression of man;

(e) Protecting and upgrading the cultural wealth of the Portuguese people, protecting nature and the environment and preserving natural resources.

(Paragraphs b, c and d are reworded expansions of former paragraphs b and c, which stipulated:

(b) Assuring the organized participation of the people in solving national problems, protecting political democracy and assuring that democratic legality is respected;

(c) Socializing the means of production and wealth in ways appropriate to the characteristics of the present historical period, creating conditions which make it possible to promote the welfare and quality of life of the people, especially the working classes, and abolishing man's exploitation and oppression of man.

#### Article 10 (Universal Suffrage and Political Parties)

1. The people exercise political power through universal, equal, direct, secret and periodic suffrage and in the other ways prescribed by the constitution.

2. Political parties shall compete for the organization and expression of the will of the people, with respect for the principles of national independence and political democracy.

(Former Article 10, referring to the "revolutionary process," has been deleted. Section 2 is former Section 3 of Article 3.)

#### Article 11 (National Symbols)

1. The national flag is the one adopted by the republic established by the Revolution of 5 October 1910.

2. The national anthem is "A Portuguesa" [The Portuguese].

#### Part I. Basic Rights and Responsibilities.

##### Section I. General Principles.

#### Article 12 (Principal of Universality)

1. All citizens shall enjoy the rights, and be subject to the responsibilities, prescribed by the constitution.

2. Collective entities shall enjoy the rights, and be subject to the responsibilities, compatible with their nature.

#### Article 13 (Principle of Equality)

1. All citizens shall have the same social status and be equal before the law.

2. Collective entities shall enjoy "grado", benefited, damaged, deprived of any right or exempt of any responsibility by virtue of ascendancy, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic or social status.

#### Article 14 (Portuguese Abroad)

Portuguese citizens visiting or residing abroad shall enjoy the protection of the government in exercising their rights and shall be subject to responsibilities not incompatible with their absence from the country.

#### Article 15 (Foreigners and Refugees)

1. Foreigners and refugees visiting or residing in Portugal shall enjoy the rights and be subject to the responsibilities of Portuguese citizens.

2. The provisions of the preceding paragraph do not include political rights, the exercise of public duties which are not of a predominantly technical nature and the rights and responsibilities reserved by the constitution and by law for Portuguese citizens exclusively.

3. Citizens of Portuguese-speaking countries may be granted, by international agreement and under reciprocal conditions, rights not granted to foreigners, with the exception of access to office in organs of sovereignty and autonomous regions, service in the armed forces and diplomatic service.

#### Article 16 (Scope and Sense of Basic Rights)

1. The basic rights authorized by the constitution shall not exclude any other applicable continuing aspects of the statutes and regulations of international law.

2. The legal and constitutional provisions regarding basic rights shall be interpreted and integrated in an harmonious manner with the Universal Declaration of Human Rights.

(The title was formerly "Extension of Rights.")

#### Article 17 (Administration of Rights, Liberties and Guarantees)

Rights, liberties and guarantees shall be administered in accordance with the provisions of Section II and the basic rights of a similar nature.

(Reference to the "basic rights of workers" has been deleted.)

#### Article 18 (Force of Law)

1. Constitutional provisions regarding rights, liberties and guarantees are directly applicable and are incumbent on both public and private entities.

2. The law alone may restrict rights, liberties and guarantees in the cases expressly stipulated in the constitution. Restrictions shall be limited to what is necessary to safeguard other constitutionally protected rights and interests.

3. Laws restricting rights, liberties and guarantees must be of a general and abstract nature and cannot be retroactive, nor can they reduce the extension or scope of the basic content of constitutional provisions.

#### Article 19 (Suspension of Exercise of Rights)

1. The organs of sovereignty cannot, together or individually, suspend the exercise of rights, liberties and guarantees except in the event of martial law or a state of emergency, declared as prescribed by the constitution.

2. Martial law or a state of emergency, for all or part of national territory, may be declared only in cases of actual or imminent aggression by foreign forces, serious threat or disturbance of democratic constitutional order or public disaster.

3. Declaration of martial law or a state of emergency shall be duly established and shall contain specification of the rights, liberties and guarantees whose exercise is suspended. Such declaration cannot be extended for more than 15 days, without prejudice to possible renewal for new periods of equal duration.

4. Under no circumstances can the declaration of martial law affect the right to life and personal integrity, the nonretroactiveness of criminal law, the right of accused persons to a defense and freedom of conscience and freedom of religion.

5. The declaration of a state of emergency may only entail partial suspension of rights, liberties and guarantees.

6. The declaration of martial law or a state of emergency gives authorities the power to take the appropriate necessary measures for prompt reestablishment of constitutional normalcy.

(Paragraphs 5 and 6 are the former paragraphs 4 and 5.)

#### Article 20 (Access to Law and Courts)

1. Everyone shall be entitled to legal information and protection in accordance with the law.

2. Everyone is assured of access to the courts for the defense of his rights; the administration of justice cannot be denied because of insufficient economic means.

(Paragraph 2 is the former paragraph 1. Former paragraph 2 was changed to Article 21.)

#### Article 21 (Right of Resistance)

Everyone has the right to resist any order violating his rights, liberties and guarantees and to forcefully repel any aggression when it is not possible to appeal to public authority.

(This was paragraph 2 of former Article 20. Paragraph 1 of former Article 21 became Article 22. Former paragraph 2 became paragraph 6 of Article 29.)

#### Article 22 (Liability of Public Entities)

The government and other public entities are civilly liable, jointly and severally with the heads of their organs, officials or agents, for actions or omissions in the exercise of their duties and by virtue thereof, for any violation of rights, liberties and guarantees or injury to others.

(This was paragraph 1 of former Article 2. Former Article 22 is now part of Article 33.)

#### Article 23 (Superintendent of Justice)

1. Citizens may file complaints for actions or omissions of public authorities with the superintendent of justice, who shall judge them without any decision-making power, submitting recommendations necessary for preventing and rectifying injustices to the respective agencies.

2. The activities of the superintendent of justice is independent of the contentious and litigious means prescribed by the constitution and the law.

3. The superintendent of justice is appointed by the Assembly of the Republic.

(This was former Article 24. Former Article 23 became part of Article 33.)

### Section II. Rights, Liberties and Guarantees.

#### Subsection I. Personal Rights, Liberties and Guarantees.

#### Article 24 (Right to Life)

1. Human life is sacred.

2. Capital punishment shall not apply in any case.

(New division of the section into subsections. This is former Article 25. Former Article 24 became Article 23.)

#### Article 25 (Right to Personal Integrity)

1. The moral and physical integrity of citizens is sacred.

2. No one may be subjected to torture or to cruel, degrading or inhuman treatment or punishment.

(This is former Article 26. Former Article 25 became Article 24.)

#### Article 26 (Other Personal Rights)

1. The right of everyone to personal identity, legal capacity, citizenship, good name and reputation, image and privacy of the intimacy of private and family life, is recognized.

2. The law shall establish effective guarantees against the use of information concerning persons and families which is abusive or contrary to human dignity.

3. Deprivation of citizenship and restrictions of legal capacity may be made only in the circumstances and conditions prescribed by law and cannot have political grounds as their basis.

(Paragraphs 1 and 2 are former Article 33, with a new title. Former Article 26 became Article 25.)

#### Article 27 (Right to Freedom and Security)

1. Everyone shall have the right to freedom and security.

2. No one may be totally or partially deprived of freedom, except as a result of a judicial sentence for committing an act punishable by law with imprisonment or the legal implementation of security measures.

3. Not subject to this principle is the deprivation of liberty for the period and under the conditions specified by law in the following cases:

(a) Preventive imprisonment in flagrante delicto or with strong indications of the commission of a serious crime corresponding to a major penalty; (b) Imprisonment or detention of anyone who has crossed over into or is illegally in national territory or for whom extradition or expulsion proceedings are in progress; (c) Disciplinary imprisonment of soldiers, with the guarantee of recourse to a competent court; (d) Subjection of a minor to measures for protection, assistance or education in an appropriate establishment, as decreed by the competent court of jurisdiction; (e) Detention resulting from a court decision by virtue of having disobeyed a decision issued by a court or for guaranteeing an appearance before competent judicial authorities.

4. Anyone deprived of his liberty shall be informed immediately of the reasons for his imprisonment or detention.

5. Deprivation of liberty in violation of the constitution and the law shall constitute circumstances for which the injured party will have to be compensated in accordance with the terms established by law.

(Reference was made to the "shortest period" in former paragraph 4.)

#### Article 28 (Preventive Imprisonment)

1. Imprisonment without established guilt shall be subject, within a maximum period of 48 hours, to a court decision of validity or continuation. The judge shall be informed of the reasons for detention and shall convey them to the detained party, questioning him and giving him an opportunity to defend himself.

2. Preventive imprisonment shall not be continued whenever it can be replaced by bail or by some means of provisional liberty as prescribed by law.



3. A relative or someone trusted by the prisoner, as indicated by him, shall be immediately informed of the court decision ordering or continuing a measure for the deprivation of liberty.

4. Preventive imprisonment, before and after the establishment of guilt, is subject to the duration established by law.

#### Article 29 (Application of Criminal Law)

1. No one can be criminally sentenced except by virtue of an earlier law declaring his action or omission punishable, nor for undergoing a security measure whose requirements were not established by an earlier law.

2. The provisions of the preceding paragraph shall not prevent punishment, within the limitation of domestic law, for actions or omissions which, at the time of their commission, are considered criminal according to commonly recognized general principles of international law.

3. Security measures or penalties not expressly prescribed by an earlier law cannot be applied.

4. No one can be subjected to security measures or penalties which are more severe than those prescribed at the time of the corresponding establishment or verification of the respective requirements; penal laws with content more favorable to the accused shall be applied retroactively.

5. No one may be judged more than once for commission of the same crime.

6. Citizens unjustly found guilty have the right, in accordance with the terms prescribed by law, to a review of their sentence and to compensation for damages suffered.

(Prior references to security measures specified: "Deprivations of liberty." Paragraph 6 is former paragraph 2 of Article 21.)

#### Article 30 (Limitations of Security Measures and Penalties)

1. There shall be no security measures nor penalties depriving or restricting liberty perpetually or for an unlimited or indefinite duration.

2. In the event of danger due to a serious psychiatric disorder and should treatment in an available facility be impossible, security measures depriving or restricting liberty may be extended successively as long as such a situation continues, but always by virtue of a court decision.

3. Penalties cannot be transferred.

4. No penalty shall entail, as a necessary consequence, the loss of any civil, professional or political rights.

(Former paragraph 4 has been deleted, which stipulated: "No one may be deprived, for political reasons, of Portuguese citizenship, legal capacity or title.")

#### Article 31 (Habeas Corpus)

1. Habeas corpus against the abuse of power, by virtue of illegal detention or imprisonment, shall be filed with a military or civil court, depending on the case.
2. The provision of habeas corpus may be requested by the individual or by any citizen in the enjoyment of his political rights.
3. The judge shall decide within 8 days on the request for habeas corpus in a hearing in which both parties are present.

#### Article 32 (Guarantees of Criminal Process)

1. The criminal process shall provide for all guarantees of defense.
2. Every accused shall be presumed innocent until found guilty and shall be tried within the shortest period of time compatible with the guarantees of defense.
3. The accused is entitled to choose his defense counsel and to be assisted by him in all aspects of the process; the law shall specify the instances and phases in which such assistance is compulsory.
4. All proceedings shall be under the jurisdiction of a judge, who may, in accordance with law, delegate to other entities the implementation of proceedings not directly related to basic rights.
5. The criminal process has an accusatory structure, with the court hearing and legally specified proceedings being subject to the principle of having both parties to the case present.
6. All evidence obtained through torture, coercion, violation of the physical or moral integrity of the individual, abusive invasion of private life, household, correspondence or telecommunications, shall be void.
7. No case may be withdrawn from a court whose jurisdiction has been established by prior law.

#### Article 33 (Extradition, Expulsion and Right of Asylum)

1. The extradition and expulsion of Portuguese citizens from national territory are not permitted.
2. Extradition for political reasons is not permitted.
3. There shall be no extradition for crimes punishable by death in accordance with the law of the state making the request.

4. The decision for extradition and expulsion may be made only by judicial authority.

5. The right of asylum is guaranteed to foreigners and refugees who are persecuted or seriously threatened with persecution as a result of their actions in favor of democracy, social and national liberation, peace among peoples, freedom and human rights.

6. The status of a political refugee shall be defined by law.

(Paragraphs 1 to 4 are the former Article 23. Paragraphs 5 and 6 are the former Article 22.)

#### Article 34 (Inviolability of Residence and Correspondence)

1. The secrecy of one's residence and correspondence and other means of private communication are inviolable.

2. Entrance into the residence of citizens against their will may be authorized only by a competent judicial authority in the instances and according to the procedures prescribed by law.

3. No one may enter the residence of anyone during the night without his consent.

4. Any intrusion by public authorities into correspondence and telecommunications is forbidden, except in the instances specified by law in the case of criminal process.

#### Article 35 (Use of Computer Data)

1. All citizens are entitled to know the content of computer records pertaining to them and the intended purpose of such information; they may require correction and updating of such data.

2. Access of third parties to typewritten records is forbidden, except in special cases specified by law.

3. Computers may not be used for processing data regarding political or philosophical convictions, party or trade union affiliation, religious faith or private life, except when it is a case of processing statistical data which is not identifiable with individuals.

4. The law shall define the concept of personal data for purposes of computer records.

5. The assignment of an exclusive national number to citizens is forbidden.

(The expression "typewritten records" has been changed to "computer records." Paragraphs 3 and 5 are the former paragraphs 2 and 3.)

#### Article 36 (Family, Matrimony and Descent)

1. Everyone has the right to establish a family and to marry under conditions of full equality.
2. The law regulates the requirements and effects of matrimony and its dissolution, by death or divorce, regardless of the way in which it was celebrated.
3. Spouses have equal rights and responsibilities in regard to civil and political capacity and the rearing and education of children.
4. Children born outside of marriage therefore cannot be subject to any discrimination and the law or official government agencies cannot use discriminatory designations in reference to descendants.
5. Parents have the right and responsibility to educate their children.
6. Children may not be separated from their parents except when the latter do not comply with their basic responsibilities to their children, and always by virtue of a court decision.
7. Adoption is regulated and protected by law.

#### Article 37 (Freedom of Expression and Information)

1. Everyone has the right to freely express and communicate his thoughts in words, images or any other means, as well as the right to inform and be informed, without hindrance or discrimination.
2. The exercise of these rights may not be obstructed or limited by any type or form of censorship.
3. Violations committed in exercising these rights are subject to the general principles of criminal law and their analysis is under the jurisdiction of courts of law.
4. All individuals and collective entities are guaranteed, under conditions of equality and efficiency, the right of response and rectification, as well as the right to compensation for damages suffered.

(The former text referred, in paragraph 3, to the "system of punishment of the general law.")

#### Article 38 (Freedom of the Press and Mass Media)

1. Freedom of the press is guaranteed.
2. Freedom of the press implies the freedom of expression and creation of journalists and literary contributors, as well as their intervention in the ideological orientation of news organs not belonging to the government or to political parties or religious groups, without any other sector or group of workers being able to censor or hinder their free creativity.

3. Freedom of the press implies the right of journalists, in accordance with law, to access to information sources and to the protection of independence and professional secrecy, as well as the right to choose editorial advisers.
4. Freedom of the press implies the right to establish newspapers and any other publications, regardless of prior administrative authorization, guarantee or permission.
5. Periodical and nonperiodical publications may be owned by individuals, non-profit collective entities or journalistic and editorial corporations; the law shall generally assure disclosure of ownership and financial resources of the printed periodical.
6. No administrative or tax system nor policy of credit or foreign trade may directly or indirectly affect freedom of the press and the independence of news agencies with regard to political and economic powers; the government shall assure such freedom and independence, prevent the concentration of journalistic corporations, specifically through multiple or crossed participations, and shall encourage nondiscriminatory measures for supporting the press.
7. Television may not be privately owned.
8. Radio broadcasting stations may operate only with a license to be granted in accordance with law.

(Former paragraph 7, referring to the "information statute," has been deleted. Paragraph 5, formerly paragraph 4, required individuals to be Portuguese citizens.)

#### Article 39 (Mass Media Belonging to Public Entities or Their Agencies)

1. Mass Media belonging to the government and to other public entities or to entities directly or indirectly under their economic control, shall be used so as to safeguard their independence in relation to the government, the administration and other public authorities, and to assure the possibility of expression and comparison of the various currents of public opinion.
2. To guarantee compliance with the provisions of paragraph 1, there is a Mass Media Council composed of 11 members elected by the Assembly of the Republic, which shall have the authority to guarantee a general orientation respecting ideological pluralism.
3. The Mass Media Council shall issue, within the time period established by law, its prior, public and justified opinion regarding the appointment and dismissal of directors of the mass media agencies mentioned in paragraph 1.
4. Operation of the Mass Media Council shall be regulated by law.

(Paragraph 1 is the reworded combination of former paragraphs 1 and 2. Former paragraphs 3 and 4, which referred to "information councils," have been deleted.)

#### Article 40 (Right to Broadcasting Time)

1. Political parties and professional and trade union organizations are entitled to radio and television broadcasting time, in accordance with their representativeness and in accordance with criteria to be established by law.
2. The political parties represented in the Assembly of the Republic and which are not part of the government shall be entitled, in accordance with law, to space in journalistic publications belonging to public entities or their agencies and to radio and television broadcasting time, to be divided proportionally according to their representativeness, size and duration and more or less equal to that granted to the government, as well as the right to respond, in the same media, to the political statements of the government.
3. During election periods, the opponents shall be entitled to regular and equal radio and television broadcasting time.

(The reference to the "information statute" was deleted from paragraph 1. The reference to "rival political parties" was deleted in paragraph 3, formerly paragraph 2.)

#### Article 41 (Freedom of Conscience, Religion and Worship)

1. Freedom of conscience, religion and worship is inviolable.
2. No one can be persecuted, deprived of rights or exempt from civic responsibilities or obligations because of his religious convictions or practices.
3. No one can be questioned by any authority concerning his religious convictions or practices, except for collection of statistical data which cannot be identified with individuals, nor can he be prejudiced for refusing to reply.
4. Churches and other religious communities are separate from the state and are free in their organization and in the exercise of their functions and worship.
5. Freedom of instruction in any religion practiced within the respective group is guaranteed, as well as the use of its own mass media for the pursuit of its activities.
6. The right to conscientious objection, in accordance with law, is recognized.

(Paragraphs 4 to 6 are the former paragraphs 3 to 5. In paragraph 6, formerly paragraph 5, the reference to the obligation of "military service in the army for a duration identical to that of compulsory military service" has been deleted.)

#### Article 42 (Freedom of Cultural Creation)

1. Intellectual, artistic and scientific creation is free.

2. Such liberty includes the right to the invention, production and publication of scientific, literary and artistic work, including legal protection of the author's rights.

#### Article 43 (Freedom of Education and Instruction)

1. Freedom of education and instruction is guaranteed.
2. The government cannot arrogate to itself the right to plan education and culture according to any philosophical, esthetic, political, ideological or religious aims.
3. Public education shall be nondenominational.
4. The right of establishing special and cooperative schools is guaranteed.

#### Article 44 (Right of Moving and Emigration)

1. All citizens are guaranteed the right to move and settle freely in any part of national territory.
2. Everyone is guaranteed the right to emigrate or leave national territory and the right to return.

#### Article 45 (Right of Assembly and Demonstration)

1. Citizens have the right to assemble peacefully and without arms, even in places open to the public, without the need for any permit.
2. The right of all citizens to demonstrate is recognized.

#### Article 46 (Freedom of Association)

1. Citizens have the right, freely and without the necessity of any permit, to establish associations as long as they are not intended to foster violence and their respective purposes are not contrary to penal law.
2. Associations shall freely pursue their ends without interference from public officials and cannot be dissolved by the government or their activities suspended except as stipulated by law and by judicial decision.
3. No one can be obliged to join an association, nor forced by any means to remain a member of one.
4. Armed associations are not permitted, nor are military, militarized or paramilitary associations, nor are organizations which follow a fascist ideology.

(In paragraph 4, in the description of militarized or paramilitary associations, the specification "outside the government or the armed forces" has been deleted.)

Article 47 (Freedom of Occupational Choice and Access to Public Office)

1. Everyone shall have the right to freely choose his occupation or type of work, except for legal restrictions imposed for the collective interest or inherent in the position itself.

2. All citizens have the right of access to public office, under conditions of equality and liberty, as a rule through competition.

(Former Article 47 became Article 51. Paragraph 3 of former Article 51 is paragraph 1 of the present article.)

Subsection II. Rights, Liberties and Guarantees of Political Participation.

Article 48 (Participation in Public Life)

1. All citizens have the right to take part in political life and in the administration of the country's public affairs, directly or through freely elected representatives.

2. All citizens have the right to be objectively informed concerning the actions of the government and other public entities and to be informed by the government and other authorities concerning the administration of public affairs.

(Former paragraphs 2 and 4 have been deleted, which referred to universal suffrage and access to public office; this material became part of Articles 49 and 50.)

Article 49 (Right to Vote)

1. All citizens over 18 years old, with the exception of the disqualifications stipulated in the general law, are entitled to vote.

2. The exercise of the right to vote is personal and constitutes a civic responsibility.

(Former Article 49 became Article 52.)

Article 50 (Right of Access to Public Office)

1. All citizens have the right of access, under conditions of equality and liberty, to public office.

2. No one may be discriminated against with regard to his job, employment, professional career or social benefits to which he is entitled by virtue of exercising political rights or the discharge of public office.

(Former Article 50 has been deleted. It concerned the "collective appropriation of the principal means of production," the "planning of economic development" and the "democratization of institutions" as "guarantees and conditions for the achievement of economic, social and cultural rights and responsibilities.")



## Article 51 (Political Parties and Associations)

1. Freedom of association includes the right to establish or participate in political parties and associations and, through them, to compete democratically for shaping the will of the people and the organization of political power.
2. No one may simultaneously be registered in more than one political party nor be deprived of the exercise of any right for being or ceasing to be registered in any legally constituted party.
3. Political parties cannot, without prejudice to their motivating philosophy or ideology or their platform, use a name containing expressions directly related to any religion or church, nor can they use emblems which can be confused with national or religious symbols.

(This was former Article 47. Former Article 51 became Article 59.)

## Article 52 (Right of Petition and Popular Action)

1. All citizens have the right to present, individually or collectively, to the organs of sovereignty, or to any authority, petitions, proxies, demands or complaints in defense of their rights, the constitution, laws or the general interest.
2. The right of popular action, in the instances and according to the terms prescribed by law, is recognized.

(This was former Article 49. In paragraph 1, in the changed portion, the 1976 text read: "They can." Former Article 52 became paragraph 3 of Article 59 and paragraph b) of the same former Article 52 became Article 53.)

## Subsection III. Rights, Liberties and Guarantees of Workers

### Article 53 (Security of Employment)

Workers are guaranteed security of employment and dismissals without just cause or for political or ideological reasons are forbidden.

(This was paragraph b) of former Article 52. Former Article 53 became part of Article 60.)

### Article 54 (Workers Commissions)

1. Workers have the right to establish workers commissions for the defense of their interests and for democratic participation in the life of the company.
2. Workers assemblies shall decide on a constitution, shall approve by-laws and shall elect, by direct secret vote, the members of workers commissions.
3. Coordinating commissions may be established for better participation in economic reorganization and in order to guarantee the interests of workers.

4. Commission members enjoy the legal protection accorded to trade union representatives.

(This was former Article 55. Former Article 54 became part of Article 60. The reference: "aimed at strengthening the unity of the working classes and their mobilization for the revolutionary process of building a democratic government of workers" has been deleted in paragraph 1. Paragraph 2 is a combination of former paragraphs 2 and 3 of Article 55. Paragraph 5 of that article became paragraph 3.)

#### Article 55 (Rights of Workers Commissions)

The rights of workers commissions include: a) obtaining all information necessary to carry out their activities; b) exercising control of management in companies; c) participating in the reorganization of productive units; d) participating in the formulation of labor legislation and economic-social plans concerning the respective sector; e) directing or participating in the management of the company's social works; f) campaigning for the election of workers' representatives for the social organs of companies owned by the state or other public entities in accordance with law.

(This was former Article 56. Former Article 55 became Article 54.)

#### Article 56 (Trade Union Liberty)

1. The right of workers to trade union liberty, a condition and guarantee for building their unity for the defense of their rights and interests, is recognized.

2. In the exercise of trade union liberty, workers are guaranteed, without any discrimination, specifically: a) freedom to establish trade union associations at all levels; b) freedom of registration, with no worker being obliged to pay dues to a trade union in which he is not registered; c) freedom of organization and internal regulation of trade union associations; d) the right to carry out trade union activities in the company; e) the right of tendency, as specified by the respective by-laws.

3. Trade union associations shall be governed by democratic principles of organization and management, based on the periodic election, by secret vote, of the administrative organs, without the need for any authorization or approval, and based on the active participation of workers in all aspects of trade union activity.

4. Trade union associations are independent of employers, the government, religious groups, political parties and other associations and the law shall establish adequate guarantees for such independence, based on the unity of the working classes.

5. Trade union associations have the right to establish relations or to be affiliated with international trade union organizations.

6. The law guarantees adequate protection to workers' elected representatives from any form of conditioning, restriction or limitation of the legitimate exercise of their functions.

(This was former Article 57. Former Article 56 became Article 55. The new paragraph e) incorporates what was prescribed in former paragraph 5 of Article 57. Former paragraph 6 became paragraph 5.)

#### Article 57 (Rights of Trade Union Associations and Collective Agreements)

1. Trade union associations have the right to defend, and to promote the defense, of the rights and interests of the workers whom they represent.

2. Rights of trade union associations include: a) participation in the formulation of labor legislation; b) participation in the management of social security institutions and other organizations meant to satisfy the interest of workers; c) participation in supervising the implementation of economic-social plans.

3. Trade union associations are entitled to exercise the right of collective agreement, which is guaranteed by law.

4. The law shall establish regulations concerning the legitimate conclusion of collective labor agreements, as well as the effectiveness of the respective standards.

(This was former Article 58. The reference to "working classes" in paragraph b) has been deleted. In paragraph 4, the term "competence" has been replaced. Former Article 57 became Article 56.)

#### Article 58 (Right to Strike and Prohibition of Lockouts)

1. The right to strike is guaranteed.

2. Workers have the right to define the extent of their interests and to defend them by striking. The law cannot limit this extent.

3. Lockouts are prohibited.

(This article incorporates former Article 59 and Article 60. Former Article 58 became Article 57.)

### Section III. Economic, Social and Cultural Rights and Responsibilities.

#### Subsection I. Economic Rights and Responsibilities.

#### Article 59 (Right to Work)

1. Everyone has the right to work.

2. The responsibility of working is inseparable from the right to work, with the exception of those whose capacities are reduced as a result of age, illness or disability.

3. The government is obliged, through the implementation of social and economic policy plans, to guarantee the right to work, by providing for: a) the implementation of full-employment policies; b) equal opportunity in the choice of occupation of type of work and conditions providing that access to any duty, work or occupational category will not be impeded or restricted on the basis of sex; c) cultural, technical and professional training of workers.

(Subsection I, "General Principle," has been deleted. Paragraphs 1 and 2 constitute former Article 51. Paragraph 3 of former Article 51 became paragraph 1 of Article 47. Paragraph 3 is the former Article 52. The "right to material assistance for those who involuntarily find themselves unemployed" in paragraph a) has been eliminated and transferred to Article 60. In paragraph c), the reference "combining manual labor with intellectual labor" has been deleted. Paragraphs b) and c) were the former paragraphs c) and d) of Article 52. Former paragraph b) of Article 52 is Article 53. Former Article 55 is part of Article 58.)

#### Article 60 (Rights of Workers)

1. All workers, regardless of age, sex, race, citizenship, territory of origin, religion, political or ideological convictions, have the right: a) to compensation for work, according to its quantity, nature and quality, with respect for the principle of equal wages for equal work, in order to guarantee a dignified existence; b) to the organization of labor in socially ennobling conditions, in order to permit personal achievement; c) to work on conditions of cleanliness and safety; d) to rest and leisure, in accordance with the maximum limit per working day, to a weekly break, and to periodic paid vacations; e) to material assistance when they are involuntarily unemployed.

2. The government is obliged to provide for the working, compensation and leisure conditions to which workers are entitled, specifically: a) the establishment and updating of a national minimum wage based, among other factors, on the needs of workers, the increase in the cost of living, the development level of productive forces, the requirements of economic and financial stability and investment for development; b) establishment, at the national level, of job duration limits; c) special protection of women's jobs during pregnancy and thereafter, as well as the jobs of minors, the handicapped and those performing particularly difficult duties or under unhealthy, toxic or dangerous conditions; d) systematic development of a network of leisure and vacation centers in cooperation with social organizations; e) protection of working conditions and guaranteed social benefits for immigrant workers.

(This article incorporates former Articles 53, paragraph 1, and 54, paragraph 2. Former Article 60 is part of Article 58. In paragraph a) of paragraph 2, the reference to "national maximum wage" has been deleted. In paragraph b) of paragraph 2, the reference to "national work schedule" has been deleted.)

#### Article 61 (Private, Cooperative and Self-Managed Enterprise)

1. Private economic enterprise may be carried out freely as an instrument for collective progress in accordance with the terms of the constitution and the law.

2. The right of everyone to freely establish cooperatives, provided they observe cooperative principles, is recognized.

3. Cooperatives may freely carry out their activities and may group together as unions, federations or confederations.

4. The right of self-management, in accordance with law, is recognized.

(This replaces former Article 61, which contained references to the "Plan" and to government support for self-management experiments.)

#### Article 62 (Right to Private Property)

1. Everyone is guaranteed the right to private property and to its assignment while living or after death, in accordance with the constitution.

2. Requisition and expropriation for public use may be carried out only in accordance with law and, apart from the instances specified in the constitution, with payment of just compensation.

(Former paragraph 2 stipulated: "2. Apart from the instances specified in the constitution, expropriation for public use may be carried out only with payment of just compensation.")

#### Subsection II. Social Rights and Responsibilities.

#### Article 63 (Social Security)

1. Everyone has the right to social security.

2. The government is obliged to organize, coordinate and subsidize a unified and decentralized social security system, with the participation of trade union associations and other organizations representative of workers and associations representative of other beneficiaries.

3. Organization of the social security system does not prejudice the existence of private nonprofit institutions for social solidarity for the purpose of pursuing the social security goals listed in this article in paragraph b) of paragraph 2 of Article 67, in Article 69, in paragraph d) of paragraph 1 of Article 70 and in Articles 71 and 72, which are permitted, regulated by law and subject to government taxation.

4. The social security system will protect citizens who are ill, old, disabled, widowed and orphaned, as well as unemployed, and in all other situations in which the means of livelihood or the ability to work are reduced or absent.

(This was Subsection III. Paragraph 2 of the 1976 text stipulated: "... decentralized, in accordance and with the participation of trade union associations and other organizations of the working classes." Paragraph 2 referred to "private" institutions.)

#### Article 64 (Health)

1. Everyone has the right to health care and the responsibility to protect and promote it.
2. The right to health care shall be provided through the establishment of a universal, general and free national health service, by the establishment of economic, social and cultural conditions which guarantee the protection of infancy, youth and old age, and through the systematic improvement of working and living conditions, as well as through the promotion of physical, sports, scholarly and popular development and also by developing the people's health education.
3. To assure the right to health care, the government is primarily obliged to: a) guarantee the access of all citizens, regardless of their economic status, to preventive, curative and rehabilitative medical care; b) guarantee rational and efficient medical and hospital coverage for the entire country; c) take measures oriented toward the socialization of medicine and medical/pharmaceutical sectors; d) discipline and control private and corporate forms of medical care, coordinating them with the national health service; e) discipline and control the production, marketing and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis.
4. The national health service shall have a decentralized, shared management.

#### Article 65 (Housing)

1. Everyone is entitled, for himself and for his family, to housing of adequate size, in conditions of cleanliness and comfort, and preserving personal intimacy and family privacy.
2. In order to assure the right to housing, the government is obliged to:
  - a) plan and implement a housing policy as part of plans for general reorganization of the territory and aided with urbanization plans assuring the existence of an adequate system of transportation and social facilities;
  - b) encouraging and supporting the initiatives of local communities and population groups attempting to solve their respective housing problems, and encouraging self-construction and the establishment of housing cooperatives;
  - c) stimulating private construction, subordinate to the general interest.
3. The government shall adopt a policy oriented toward the establishment of a revenue system compatible with family income and access to individual housing.
4. National and local governments shall exercise effective control over real estate and shall proceed with the necessary nationalization or municipalization of urban land, and shall define the respective right of use.

#### Article 66 (Environment and Quality of Life)

1. Everyone has the right to a healthy and ecologically balanced human environment and the responsibility to protect it.

2. The government is obliged, through its agencies and by appeal and support for popular initiatives: a) to prevent and control pollution and its effects and harmful forms of erosion; b) to organize territorial space so as to establish biologically balanced landscapes; c) to establish and develop natural and recreational parks and reservations, as well as to classify and protect natural landscapes and sites, in order to assure conservation of the environment and the preservation of cultural values of historical or artistic interest; d) to encourage the rational development of natural resources, while safeguarding their renewability and ecological stability.

3. Everyone has the right to promote, in accordance with law, the prevention or elimination of factors of environmental deterioration, as well as the right to corresponding compensation in the case of direct damage.

4. The government shall encourage the gradual and accelerated improvement of the quality of life of all Portuguese.

(The wording of Article 3 has been changed, which formerly stipulated: "A citizen whose right, as provided in paragraph 1, is threatened or damaged can request, in accordance with law, the elimination of the causes of violation and respective compensation.")

#### Article 67 (Family)

1. The family, as the basic unit of society, is entitled to the protection of society and the government and to the implementation of all conditions permitting the personal achievement of its members.

2. To protect the family, the government is specifically obliged to: a) promote the social and economic independence of family groups; b) promote the establishment of a national system of maternal-child care, a national system of day care centers and family support infrastructures, as well as an old-age policy; c) cooperate with parents in the education of their children; d) promote, by the necessary means, disclosure of family planning methods and to organize the legal and technical structures permitting the exercise of conscientious paternity; e) regulate taxes and social benefits in harmony.

#### Article 68 (Fatherhood and Motherhood)

1. Fathers and mothers have the right to protection from society and the government in carrying out their irreplaceable actions in relation to their children, in particular regarding their education, with the guarantee of professional achievement and participation in the civic life of the country.

2. Fatherhood and motherhood constitute eminent social values.

3. Working mothers are entitled to a leave of absence from their jobs, before and after giving birth, without loss of pay and any privileges.

(Former paragraph 1 stipulated: "1. The government recognizes motherhood as an eminent social value, protecting mothers in the specific requirements of their irreplaceable actions concerning the education of their children and

guaranteeing their professional achievement and participation in the civic life of the country." Paragraph 3 is the former paragraph 2.)

#### Article 69 (Infancy)

1. Infants are entitled to protection from society and the government, with a view to their public development.
2. Infants, particularly orphans, and abandoned children, are entitled to special protection from society and the government against all forms of discrimination and oppression and against the abuse of authority in the family and in other institutions.

#### Article 70 (Youth)

1. Youth, especially working youth, shall enjoy special protection regarding the implementation of their economic, social and cultural rights, specifically: a) access to education, culture and work; b) vocational training and advancement; c) physical education and sports; d) utilization of leisure time.
2. The primary goals of a youth policy shall include development of the personality of young people, appreciation for free creativity and a sense of community service.
3. In cooperation with families, schools, companies, basic public organizations and cultural and recreational groups, the government shall promote and support youth organizations in the pursuit of these goals, as well as all forms of international interaction among youth.

(Paragraphs c) and d) are a further development of former paragraph c).)

#### Article 71 (The Handicapped)

1. Citizens who are physically or mentally handicapped shall fully enjoy the rights, and be subject to the responsibilities, prescribed by the constitution, except for those with which they are unable to comply.
2. The government is obliged to implement a national policy of prevention and treatment, rehabilitation and integration for the handicapped, to develop an educational program to make society aware of its responsibility to respect and support them and to assume the duty of actually accepting the rights and complying with the responsibilities of parents or guardians.

#### Article 72 (Old Age)

1. Elderly persons are entitled to economic security, housing conditions and family and community contact which prevent and eliminate social isolation or marginalization.
2. An old-age policy shall include economic, social and cultural measures aimed at providing elderly people with opportunities for personal development through active participation in community life.



(Rewriting of former Article 72.)

Subsection III. Cultural Rights and Responsibilities.

Article 73 (Education, Culture and Science)

1. Everyone has the right to education and culture.
2. The government shall promote the democratization of education and other conditions so that education, carried out by schools and other instructional means, will contribute to the development of personality, to social progress and to democratic participation in community life.
3. The government shall promote the democratization of culture, encouraging and assuring the access of all citizens to the fruits of cultural creativity, in cooperation with the mass media, cultural and recreational groups, associations for the protection of cultural wealth, basic public organizations and other cultural agents.
4. Scientific research and development shall be encouraged and supported by the government.

(This was Subsection IV. In paragraph 2, the reference to "democratic and socialist society" has been deleted. In paragraph 3, the reference "in particular of workers" has been deleted. The reference to "associations for the protection of cultural wealth" has been expanded. Paragraph 4 is the former paragraph 1 of Article 77.)

Article 74 (Education)

1. Everyone has the right to education, with the guaranteed right of equal opportunity for educational access and achievement.
2. The educational system shall be modified in order to eliminate any remnants of economic, social and cultural inequality.
3. In the implementation of an educational policy, the government is obliged:
  - a) to provide basic universal, compulsory and free education;
  - b) to establish a public system of preschool education;
  - c) to guarantee permanent education and to eliminate illiteracy;
  - d) to guarantee to all citizens, according to their abilities, access to the highest levels of education, scientific research and artistic creation;
  - e) to gradually establish preeducation at all level;
  - f) to incorporate schools into the communities which they serve and to establish an interrelationship between education and social, cultural and economic activities;
  - g) to promote and support special education for the handicapped;
  - h) to provide instruction in the Portuguese language and access to Portuguese culture to the children of immigrants.

(The following texts have been changed: "1. The government recognizes and guarantees to all citizens the right to education and to equal opportunity in schooling. 2. The government shall modify education in order to eliminate its function of conserving the social division of labor. 3. f) To establish

a relationship between education and productive and social activities; g) to encourage the development of scientific and technical personnel from the working classes.")

#### Article 75 (Public, Private and Cooperative Education)

1. The government shall establish a network of public educational establishments to meet the needs of the entire population.

2. The government shall supervise private and cooperative education.

(In paragraph 1, the term "official" has been replaced. In paragraph 2, the reference to private education as "supplementary to public education" has been deleted.)

#### Article 76 (Universities)

1. The process of obtaining admission to universities shall take into account the needs for qualified personnel and elevation of the country's educational, cultural and scientific level, encouraging and favoring the introduction of workers and children of workers.

2. Universities shall enjoy, in accordance with law, scientific, educational, administrative and financial autonomy.

(The title was formerly "Access to Universities." In paragraph 1, the reference to "working classes" has been deleted.)

#### Article 77 (Democratic Participation in Education)

1. Professors and students have the right to participate in the democratic administration of schools, in accordance with law.

2. The law regulates the forms of participation of associations of professors, students, parents, communities and institutions of a scientific nature in the determination of educational policy.

(Former Article 77, whose paragraph 1 became paragraph 4 of Article 73, has been deleted.)

#### Article 78 (Cultural Creativity and Development)

1. Everyone has the right to cultural creativity and development, as well as the responsibility to preserve, protect and improve the cultural wealth.

2. In cooperation with all cultural agencies, the government is obliged: a) to encourage and assure the access of all citizens, especially workers, to means and instruments of cultural activity and to rectify the country's existing imbalances in this regard; b) to support initiatives encouraging individual and collective creativity, in their many forms and expressions, and greater circulation of works and cultural assets of high quality; c) to promote the

protection and improvement of the cultural wealth, making it a vital part of the common cultural identity; d) to develop cultural relations with all peoples, especially Portuguese-speaking peoples, and to assure the protection and promotion of Portuguese culture abroad; e) to coordinate cultural policy and other sectoral policies.

3. Everyone has the right to promote, in accordance with law, the prevention or elimination of factors favoring the decline of cultural wealth.

(Former Article 78, entitled "Cultural Wealth," stipulated: "The government is obliged to preserve, protect and improve the cultural wealth of the Portuguese people.")

#### Article 79 (Physical Culture and Sports)

1. Everyone has the right to physical culture and sports.

2. In cooperation with schools and sports groups and associations, the government is obliged to promote, encourage, direct and support the practice and spread of physical culture and sports.

(Former Article 79 stipulated: "The government recognizes the right of citizens to physical culture and sports as means of human improvement and is obliged to promote, encourage and direct their practice and spread.")

### Part II. Economic Organization.

#### Section I. General Principles.

#### Article 80 (Basic Principles)

Economic-social organization is based on the following principles: a) Subordination of economic power to democratic political power; b) Coexistence of the various sectors of public, private and cooperative ownership; c) Collective appropriation of the principal means of production and land, as well as natural resources; d) Democratic planning of the economy; e) Development of social ownership; f) democratic intervention of workers.

(Former Article 80, entitled "Basis of Economic-Social Organization," provided: "The economic-social organization of the Portuguese Republic is based on the development of socialist relationships of production through collective appropriation of the principal means of production and land, as well as natural resources, and exercise of the democratic power of the working classes.")

#### Article 81 (Primary Responsibilities of the Government)

Economically and socially, the government is primarily responsible for: a) promoting the greater social and economic welfare and quality of life of the people, especially of the most underprivileged classes; b) making the necessary corrections of inequalities in the distribution of wealth and income; c) assuring the full use of productive forces, managing in particular the efficiency of the public sector; d) orienting economic and social development toward balanced growth of all sectors and regions and gradually eliminating

the economic and social differences between urban and rural areas; e) eliminating and preventing the formation of private monopolies through nationalizations or in other ways, as well as eliminating the abuses of economic power and all practices harmful to the general interest; f) assuring balanced competition among companies; g) developing economic relations with all peoples, while always safeguarding national independence and the interests of the Portuguese and the country's economy; h) implementing agrarian reform; i) assuring the participation of organizations representing workers and organizations representing economic activities in the determination, implementation and control of the principal economic and social measures; j) protecting the consumer; l) creating the legal and technical structures necessary for the establishment of a system of democratic economic planning; m) developing a scientific and technological policy with preference for the areas concerning the country's development, with a view to the gradual elimination of foreign dependence; n) adopting a national energy policy, conserving natural resources and preserving the ecological balance, while promoting international cooperation in this regard.

(Former paragraph b) became paragraph c). Paragraphs e) and i) of the 1976 text constitute paragraph d). Former paragraph c), which stipulated: "Promoting equality among citizens through the transformation of economic-social structures," has been deleted. Former paragraphs f) and g) respectively became paragraphs g) and e). Paragraph j) became paragraph f) and the following was deleted: "... with the law specifying protection for small and medium-size businesses which are economically and socially viable." Paragraph m) became paragraph j) and the references to support for consumer associations or cooperatives were eliminated. Former paragraph n), which stipulated: "encouraging development of socialist relationships of production," has been deleted. Former paragraph o) became paragraph i), with new wording.)

#### Article 82 (Intervention, Nationalization and Socialization)

The law shall determine the ways and means of intervention, nationalization and socialization of the means of production, as well as the criteria for determining compensation.

(In former paragraph 1, the changed word was "of the." Former paragraph 2, which provided: "The law may determine that expropriations of large landed estates and business owners or stockholders are not entitled to any compensation.")

#### Article 83 (Nationalizations Implemented After 25 April 1974)

1. All nationalizations carried out since 25 April 1974 are irrevocable acquisitions of the working classes.

2. Indirectly nationalized small and medium-size businesses, apart from the basic sectors of the economy, may, under exceptional circumstances, become part of the private sector, provided the workers do not choose a system of self-management or that of a cooperative.

#### Article 84 (Cooperatives and Self-Management Experiments)

1. The government shall encourage and support the establishment and activities of cooperatives.
2. The law shall determine the tax and financial benefits of cooperatives as well as conditions most favorable for obtaining credit and technical assistance.
3. Viable self-management experiments are supported by the government.

(The title, which was "Cooperativism," has been changed. The responsibility of the government "to promote the establishment" of cooperatives has been eliminated. Articles 2 and 3, whose content became part of Article 61, have been deleted.)

#### Article 85 (Private Businesses)

1. The government shall monitor observance of the constitution and the law by private businesses and shall protect small and medium-size businesses that are economically and socially viable.
2. The government may intervene temporarily in the management of private businesses to assure the general interest and rights of workers, in accordance with the terms to be defined by law.
3. The law shall determine the basic sectors in which the operation of private businesses and other entities of the same nature is prohibited.

(The title, which was "Private Enterprise," has been changed. Former paragraph 1, whose spirit became part of Article 61, has been deleted. Paragraphs 1 and 2 constitute a rewording of Articles 2 and 3.)

#### Article 86 (Economic Activity and Foreign Investment)

The law shall regulate economic activity and investment on behalf of foreign individuals or groups in order to assure their contribution to the development of the country and to protect national independence and the interests of workers.

(The reference "In accordance with the Plan" has been deleted.)

#### Article 87 (Abandoned Means of Production)

1. Abandoned means of production may be expropriated under conditions to be established by law, which shall duly consider the specific situation of ownership of immigrant workers.
2. In the event of unjustified abandonment, expropriation shall not confer any right to compensation.

## Article 88 (Criminal Acts Against the National Economy)

1. Criminal acts against the national economy shall be defined by law and subject to sanctions appropriate to their gravity.
2. Sanctions may include, as penalties, the loss of property directly or indirectly obtained through criminal activity and without the offender receiving any compensation.

## Section II. Structure of Ownership of Means of Production

### Article 89 (Sectors of Ownership of Means of Production)

1. The existence of three sectors of ownership of the means of production, land and natural resources, defined in relation to their ownership and social mode of administration, is guaranteed.
2. The public sectors is comprised of property and production units belonging to public or community entities, with the following social modes of administration: a) property and production units administered by the government and by other public corporations; b) property and production units controlled and managed by groups of workers; c) community property controlled and managed by local communities.
3. The private sector is comprised of property and production units whose ownership or management belong to private individuals or corporations, without prejudice to the provisions of the following paragraph.
4. The cooperative sector is comprised of property and production units held and managed by cooperatives complying with cooperative principles.

(In paragraph 1, the reference to "in the transitional stage to socialism," has been deleted. In paragraph 2, the expression "collectivized" has been replaced. The order of former paragraphs 3 and 4 has been changed.)

### Article 90 (Development of Social Ownership)

1. Property and production units held and managed by groups of workers, community property controlled and managed by local communities and the cooperative sector constitute the basis for the development of social ownership.
2. Nationalizations, democratic planning, control of management and the democratic intervention of workers are conditions for the development of social ownership.
3. Production units belonging to the government and other public corporations shall be developed into forms of management assuring greater participation of workers.

(In paragraph 1, the expression "which shall tend to be predominant," has been deleted. In paragraph 2, the expression "democratic power" has been deleted.

In paragraph 3, the reference to "managed by the government" has been deleted and the expression "shall be developed, insofar as possible, into self-managerial forms" has been replaced.)

### Section III. Plan.

#### Article 91 (Goals of Plan)

1. The economic and social organization of the country is directed, coordinated and regulated by the Plan.
2. The Plan shall guarantee the harmonious development of sectors and regions, efficient use of productive forces, fair individual and regional distribution of national revenue, coordination of economic policy with social, educational and cultural policy, preservation of the ecological balance, protection of the environment and the quality of life of the Portuguese people.

(In paragraph 1, the following initial phrase has been deleted: "For the construction of a socialist economy through the transformation of capitalist relationships of production and accumulation ...")

#### Article 92 (Legal Force)

1. The Plan is compulsory for the state-owned public sector and is binding, by force of contracts and programs, for other operations of public interest.
2. The Plan is a guideline for the cooperative, private and nonstate-owned public sectors, defining the framework to which the businesses of these sectors must submit.

#### Article 93 (Structure)

The structure of the Plan specifically includes: a) a long-term plan defining the major goals of the Portuguese economy and the means for achieving them; b) a medium-term plan containing the national, regional and sectoral plans of action for the current period; c) an annual plan constituting the fundamental basis of the government's operations and whose financial estimate is included in the state budget.

(In paragraph b), the statement that the medium-term Plan has an effective period which "shall be that of the legislature" has been deleted. In paragraph c), the expression "shall make up part of the budget" has been changed.)

#### Article 94 (Formulation and Implementation)

1. The Assembly of the Republic shall have the right to approve the major choices corresponding to each Plan and to examine the respective implementation reports.
2. The Plan's draft law shall be accompanied by a report on the major national and sectoral options, including respective justification based on preliminary studies.

3. The population, through local governments and communities, organizations representing workers and organizations representing economic activities, shall participate in formulating the Plan.

4. Participation in formulating the Plan shall be, specifically, through the National Plan Council and its organization and operation shall be defined by law.

5. Implementation of the Plan shall be decentralized, regional and sectoral, without prejudice to central coordination, to which the government is entitled in the final analysis.

(Paragraphs 3 and 4 constitute expansions of former paragraph 2. Paragraph 5 is the former paragraph 3.)

#### Article 95 (Plan Regions)

1. The country shall be divided into Plan Regions on the basis of the geographic, natural, social and human characteristics and potential of national territory with a view to its balanced development and with consideration for the needs and interests of the population.

2. The law shall determine Plan regions and define the arrangement of their component regional planning agencies.

#### Section IV. Agricultural Policy and Agrarian Reform.

#### Article 96 (Goals of Agricultural Policy)

1. Agricultural policy has the following goals: a) to promote improvement of the economic, social and cultural status of rural workers and of small and medium-size farmers through the transformation of agrarian structures and by the gradual transfer of control of the land and means of production directly involved in its use to those who work it; b) to increase agricultural productivity and production, providing it with suitable infrastructures and human, technical and financial resources tending to assure better supply of the country as well as an increase in exportation; c) to create the conditions necessary for achieving effective equality of those employed in agriculture with other workers and to prevent the agricultural sector from being disadvantaged in its trade relations with other sectors; d) to assure the rational use and management of the land and remaining natural resources, as well as maintenance of its regenerative capacity.

2. Agrarian reform is one of the basic instruments for achieving the goals of agricultural policy.

(The description and title, which referred only to "agrarian reform," have been changed. The former Article's introduction constitutes paragraph 2, with deletion of the reference to "construction of socialist society.")



#### Article 97 (Elimination of Large Estates)

1. Transfer of control of the land and of the means of production directly involved in its use to those who work it will be achieved through the expropriation of large estates and large capitalist operations.
2. Expropriated property shall be turned over for use to small farmers, to cooperatives of rural workers or small farmers or to other entities collectively operated by workers.
3. The operations listed in this article shall be carried out in accordance with the terms to be defined by the agrarian reform law and according to the Plan's scheme of action.

#### Article 98 (Small Estates)

Without prejudice to the right of ownership, agrarian reform shall attempt, in regions with small estates, to obtain appropriate reorganization of operations through incentives for cooperative integration of various units or even, whenever necessary, by employing measures for parceling, leasing or other appropriate forms of intervention.

(The expressions "preferential recourse" and "by mediation of the coordinating agrarian reform agency" have been replaced.)

#### Article 99 (Small and Medium-Size Farmers)

1. Agrarian reform shall be carried out with guaranteed ownership of the land of small and medium-size farmers as an instrument or result of their work and protecting the interests of immigrants and those with no other means of livelihood.
2. The law shall determine the criteria for establishing the maximum limits of estates for private agricultural use.

#### Article 100 (Cooperatives and Other Forms of Collective Operations)

Achievement of the goals of agrarian reform implies the establishment, by rural workers and small and medium-size farmers with government support, of cooperatives for production, purchase, sale, processing and services, as well as other forms of collective operation by workers.

#### Article 101 (Ways of Utilizing Another's Land)

1. Leasing systems and other ways of utilizing another's land shall be regulated by law in order to guarantee stability and the legitimate interests of the farmer.
2. Leasing and settlement systems are prohibited and conditions shall be established for farmers to effectively abolish the system of agricultural partnership.

(In paragraph 2, the expression "shall be extinct" has been replaced.)

#### Article 102 (Government Aid)

1. Small and medium-size farmers, individually or together in cooperatives, cooperatives of farm workers and other forms of collective operation by workers are entitled to government aid.

2. Government aid, in accordance with the Plan, specifically includes: a) granting of credit and technical assistance; b) support of public corporations and marketing cooperatives before and after production; c) socialization of risks resulting from unpredictable or uncontrollable climatic or phytopathological incidents; d) encouragement and support for the cooperation of rural workers and farmers.

(In paragraph 2, the expression "according to the procedures of agrarian reform and the Plan" has been replaced.)

#### Article 103 (Organization, Agrarian Reconversion and Prices)

The government shall promote a policy of organization and agrarian reconversion in accordance with the country's ecological and social conditions and shall provide for marketing of agricultural produce and the scope of collective orientation by agricultural and food workers, setting the respective guaranteed prices at the start of each agricultural season.

#### Article 104 (Participation in Agrarian Reform)

The participation of rural workers and of small and medium-size farmers in the establishment and implementation of agrarian reform, particularly in agencies established for that purpose, shall be carried out through their respective organizations as well as through cooperatives and other forms of collective operation by workers.

#### Section V. Financial and Tax System.

#### Article 105 (Financial and Monetary System)

1. The financial system is structured by law to guarantee the formation, acquisition and security of savings, as well as the application of financial resources necessary for the expansion of productive forces, in accordance with the goals set forth in the Plan.

2. The Bank of Portugal, as the central bank, has the exclusive right to issue currency and, in accordance with the Plan and government directives, to participate in the implementation of monetary and financial policies.

(In paragraph 1, the expressions "the acquisition" and "with a view to the gradual and effective socialization of the economy" have been deleted.)

#### Article 106 (Tax System)

1. The tax system shall be structured by law with a view to the equal distribution of wealth and income and satisfaction of the government's financial needs.
2. Taxes are established by law, which shall determine the incidence, rate, tax benefits and guarantees of taxpayers.
3. No one can be forced to pay taxes which have not been established in accordance with the constitution and which are not paid and collected as prescribed by law.

#### Article 107 (Taxes)

1. Personal income tax is intended to reduce inequalities and shall be gradual and exclusive, giving consideration to the needs and income of the family unit.
2. Businesses will basically be taxed on their real income.
3. Tax on estates and donations will be gradual in order to contribute to equality among citizens.
4. Tax on consumption is intended to adapt the structure of consumption to the changing needs of economic development and social justice, with luxury consumption taxed most heavily.

(In paragraph 1, the expression "and shall tend to limit incomes to a national maximum, annually defined by law" has been deleted. In paragraph 3, the expression "and shall take into account transfer of the fruits of labor by inheritance" has been deleted. In paragraph 4, the expression "of socialization of the economy" has been deleted and the expression "being burdened" has been changed.)

#### Article 108 (Budget)

1. The state budget includes: a) itemization of government revenues and expenses; b) the social security budget.
2. The budget is prepared in harmony with the options of the Plan and on the basis of legal or contractual obligations.
3. The proposed budget is submitted by the government and voted on in the Assembly of the Republic, in accordance with law.
4. The proposed budget is accompanied by a report justifying the changes in the income and expenditure entries of the previous budget and reports on the public debt and treasury accounts, as well as on the status of autonomous funds and services.

5. The budget is itemized and specific concerning expenditures according to their respective basic and functional classification, so as to prevent the existence of secret funds and allocations.

6. The budget shall provide the funds necessary to cover expenses, with the law establishing regulations for their application, as well as conditions for obtaining public funds.

7. The proposed budget is submitted and voted on within the time limit set by law, which shall stipulate the procedures to be adopted when such time limits cannot be met.

8. Implementation of the budget shall be verified by the Court of Accounts and by the Assembly of the Republic which, prior to appearing before that tribunal, shall examine and approve the General Accounts of State, including that of social security.

(The following was the altered text: "1. The budget law, to be voted on annually by the Assembly of the Republic, shall include: a) itemization of income and expenses in the budget entry concerning total allocations for public offices, ministries and state secretariats; b) the basic organizational policies of the social security budget.

2. The general state budget will be prepared by the government in harmony with the budget law and the Plan and shall take into account legal or contractual obligations."

Former paragraphs 3 and 4 became paragraphs 5 and 6. Former paragraph 7 became paragraph 8.)

## Section VI. Trade and Consumer Protection.

### Article 109 (Trade)

1. The government shall intervene in the rationalization of distribution channels and in the formation and control of prices in order to combat speculative activities, to prevent restrictive trade practices and their indirect effects on prices and to adjust the development of prices of basic goods to the goals of economic and social policy.

2. To develop and diversify external economic relations and to safeguard national independence, the government shall be obliged to regulate foreign trade operations, specifically through public corporations or other types of agencies.

(The title is new, which was formerly "Trade System." Article 109 is a combination of former Articles 109 and 110. Paragraph 2 of former Article 109 was transferred to Article 110.)

### Article 110 (Consumer Protection)

1. Consumers are entitled to formation, information, and protection of health, security and their economic interests and to compensation for damages.

2. Advertising shall be regulated by law and all forms of secret, indirect or fraudulent advertising are prohibited.

3. Consumer associations and consumer cooperatives are entitled, in accordance with law, to government support and to express themselves on issues concerning consumer protection.

(Paragraph 2 includes former paragraph 2 of Article 109. Former Article 110 became part of Article 109.)

### Part III. Organization of Political Power.

#### Section I. General Principles.

##### Article 111 (Titularity and Exercise of Power)

Political power belongs to the people and is exercised in accordance with the constitution.

##### Article 112 (Political Participation of Citizens)

The direct and active participation of citizens in political life constitutes a basic instrument and condition for consolidation of the democratic system.

##### Article 113 (Organs of Sovereignty)

1. The organs of sovereignty are the president of the republic, the Assembly of the Republic, the government and the courts.

2. The formation, composition, jurisdiction and operation of the organs of sovereignty are those defined by the constitution.

(The "Revolutionary Council," following the president of the republic, has been deleted.)

##### Article 114 (Separation and Interdependence)

1. The organs of sovereignty shall observe the separation and interdependence established by the constitution.

2. No organ of sovereignty, of an autonomous region or of a local government, may delegate its powers to other organs except in the instances and in accordance with the terms expressly stipulated by the constitution and by law.

##### Article 115 (Normative Acts)

1. Laws, decree-laws and regional legislative decrees are legislative acts.

2. Laws and decree-laws have equal value, without prejudice of subordination to the respective laws of decree-laws published in the use of legislative authorization and from which the general bases of legal systems were developed.

3. Regional legislative decrees deal with matters of specific interest for the respective regions and are not reserved for the Assembly of the Republic or the government, but they cannot make provisions contrary to the general laws of the republic.

4. General laws of the republic are laws and decree-laws whose reason for being involves their unconditional application to all national territory.

5. No law may create other categories of legislative acts or grant to acts of another nature the power, with external effectiveness, to interpret, integrate, modify, suspend or revoke any of their provisions.

6. Government regulations shall take the form of a regulatory decree when such is determined by the law which they regulate, as well as in the case of independent regulations.

7. Regulations shall expressly indicate the laws which they intend to regulate or whose subjective and objective competence they define by their issuance.

(Former Article 115 became paragraph 3 of Article 3.)

#### Article 116 (General Principles of Electoral Law)

1. Direct, secret and periodic suffrage constitutes the general rule for appointment of the title holders of the elective organs of sovereignty, autonomous regions and local governments.

2. Verification of elections is official, compulsory, permanent and unique for all elections by direct universal suffrage.

3. Election campaigns are governed by the following principles: a) freedom of propaganda; b) equal opportunity and treatment for the various candidates; c) impartiality of public agencies concerning candidates; d) verification of vote counts.

4. It is the duty of citizens to cooperate with the electoral administration as prescribed by law.

5. The conversion of votes into offices shall be carried out in harmony with the principle of proportionate representation.

6. In the process of dissolving collegial organs based on direct suffrage, the date of new elections must be set, which shall be held within 90 days following and, by the current election law, at the time of dissolution, under penalty of legal invalidity of that act.

7. Judgment of the regularity and validity of election proceedings is the jurisdiction of the courts.

(Paragraph 7 is former paragraph 6; the expression "election proceedings" has been changed.)

Article 117 (Political Parties and Right of Opposition)

1. Political parties shall participate in the organs based on direct universal suffrage, according to their democratic representativeness.
2. The right of democratic opposition for minorities, in accordance with the constitution, is recognized.
3. Political parties represented in the Assembly of the Republic and which do not form part of the government shall enjoy, in particular, the right to be regularly and directly informed by the government concerning the development of principal issues of public interest.

Article 118 (Basic Public Organizations)

Basic public organizations, formed in accordance with the constitution, have the right to participate, as prescribed by law, in the exercise of local government.

Article 119 (Collegial Organs)

1. The meetings of assemblies functioning as organs of sovereignty of autonomous regions or local government are open to the public, except as prescribed by law.
2. Decisions of collegial organs shall be passed by a majority of the legal number of their members.
3. Except in the instances stipulated by the constitution, by law and respective regulations, the decisions of collegial organs are passed by a plurality of votes, not counting abstentions among the majority.

(Paragraphs 2 and 3 are on expansion of former paragraph 2, to which the reference to abstentions has been added.)

Article 120 (Status of Holders of Political Office)

1. Holders of political office are politically, civilly and criminally liable for their actions and omissions in the exercise of their functions.
2. The law shall make provisions concerning the duties, responsibilities and incompatibilities to which holders of political office are subject, as well as their respective rights, privileges and immunities.
3. The law shall determine the crimes for which holders of political office are liable, as well as the applicable sanctions and respective effects.

(The title, "Liability," has been changed. Paragraph 3 is former paragraph 2.)

Article 121 (Principle of Renewal)

No one may hold any national, regional or local political office for life.

## Article 122 (Publication of Acts)

1. The following shall be published in the Official Daily Gazette of the Republic: a) constitutional laws; b) international agreements and the respective notices of ratification; c) regional legislative decrees, decree-laws and laws; d) decrees of the president of the republic; e) resolutions of the Assembly of the Republic and of the Regional Assemblies of the Azores and Madeira; f) regulations of the Assembly of the Republic, the Council of State and the Regional Assemblies of the Azores and Madeira; g) decisions of the Constitutional Court, as well as those of other courts granted general binding force by law; h) regulatory decrees and other decrees and regulations of the government, as well as the decrees of ministers of the republic for autonomous regions and regional regulatory decrees.

2. Failure to publish the acts listed in the preceding paragraph, as well as any act of general content by the organs of sovereignty, autonomous regions and local government, implies their legal invalidity.

3. The law shall determine the manner of publication of other acts and the consequences for failure to do so.

(Paragraph 2 is a combination of former paragraphs 1 and 4. Paragraph 1 is former paragraph 2.)

## Section II. President of the Republic.

### Subsection I. Status and Election.

## Article 123 (Definition)

The president of the republic represents the Portuguese Republic, guarantees national independence, government unity and proper functioning of democratic institutions and is ex officio commander in chief of the armed forces.

(The expression "discharges ex officio the functions of chairman of the Revolutionary Council" has been deleted.)

## Article 124 (Election)

1. The president of the republic is elected by the direct and secret universal suffrage of Portuguese citizens registered as voters in national territory.

2. The right to vote shall be exercised in person in national territory.

## Article 125 (Eligibility)

Native Portuguese citizens who are registered voters over the age of 35 are eligible.



#### Article 126 (Reeligibility)

1. Reelection for a third consecutive term is not permitted, nor during the 5-year period immediately following conclusion of the second consecutive term.
2. If the president of the republic resigns from office, he cannot run as a candidate in the immediate elections nor in those held within the 5-year period immediately following his resignation.

(The former text specified: "2. If the president of the republic resigns from office within 30 days following elections for the Assembly of the Republic, held as a result of its dissolution, he cannot run as a candidate in the immediate election.")

#### Article 127 (Candidacies)

1. Candidates for president of the republic are nominated by a minimum of 7,500 and a maximum of 15,000 registered voters.
2. Candidacies shall be submitted to the Constitutional Court up to 30 days prior to the date scheduled for the election.
3. In the event of the death of any candidate or any occurrence disqualifying a candidate for presidential office, the election process shall be reopened, in accordance with the terms to be established by law.

(Paragraph 2 of the former text referred to: "Supreme Court of Justice.")

#### Article 128 (Election Date)

1. The president of the republic shall be elected between the 60th and the 30th day prior to completion of his predecessor's term of office or subsequent to vacancy of the office.
2. The election cannot be held within 90 days prior or subsequent to the date of elections for the Assembly of the Republic; the outgoing president's term of office shall be automatically extended for the necessary period of time.

(Paragraph 1 of the former text stipulated: "... up to 30 days prior to completion of his predecessor's term of office or within 60 days subsequent to vacancy of the office." Former paragraph 3 has been deleted, which specified: "During the extension specified in the preceding paragraph, dissolution of the Assembly of the Republic is forbidden, without prejudice to the provisions of paragraph 3 of Article 198." This provision stipulated: "the president shall compulsorily dissolve the Assembly of the Republic when the latter has repudiated confidence, or voted censure, of the government, deciding on replacement of the government for any of these reasons.")

#### Article 129 (Electoral System)

1. The candidate obtaining more than half of the validly cast votes, with blank votes not being considered as such, shall be elected president of the republic.

2. If no candidate obtains that amount of votes, a second round of voting shall be held by the 21st day following the first round of voting.

3. Only the two candidates who have received the largest number of votes, and who have not withdrawn their candidacies, shall compete in this round of voting.

#### Article 130 (Inauguration and Oath of Office)

1. The president-elect shall be inaugurated before the Assembly of the Republic.

2. The inauguration shall be held on the last day of the outgoing president's term of office or, in the event of an election to fill a vacant office, on the eighth day following publication of the election results.

3. In the inauguration process, the president-elect shall make the following pledge: I swear on my honor to faithfully discharge the duties with which I am invested and to defend, execute and have executed, the Constitution of the Portuguese Republic.

(In paragraph 1, the expression: "or, in the event that the latter is dissolved, before the Supreme Court of Justice" has been deleted.)

#### Article 131 (Term of Office)

1. The term of office of the president of the republic shall be for 5 years and shall end with the inauguration of the new president-elect.

2. In the event of a vacancy, the president of the republic to be elected shall begin a new term of office.

#### Article 132 (Absence from National Territory)

1. The president of the republic cannot leave national territory without the consent of the Assembly of the Republic or the consent of its Standing Committee if the former is not in session.

2. Consent is unnecessary in cases of transitory passage or trips of an unofficial nature for a duration of not longer than 5 days; however, the president of the republic shall first submit notification to the Assembly of the Republic.

3. Failure to observe the provisions of paragraph 1 shall entail, as a point of law, the forfeiture of office.

(Former paragraph 1 provided "authorization of the Revolutionary Council and the consent of the Assembly of the Republic, if the latter is in session." Former paragraph 2 stated: "consent of the Assembly of the Republic" and "10 days.")

#### Article 133 (Criminal Liability)

1. For crimes committed in the exercise of his duties, the president of the republic shall be liable to the Supreme Court of Justice.
2. Institution of the process shall be the duty of the Assembly of the Republic on the recommendation of one-fifth of its members and a decision approved by a two-thirds majority of its current members.
3. Condemnation implies dismissal from office and the impossibility of reelection.
4. For crimes alien to the exercise of his duties, the president of the republic shall be held liable after completion of his term in office to ordinary courts.

(Former paragraph 2 stipulated: "the Revolutionary Council shall be responsible for instituting the proceedings, which shall nevertheless be carried to completion only after the Assembly of the Republic has issued a favorable decision approved by a two-thirds majority of its current members.")

#### Article 134 (Resignation of Office)

1. The president of the republic may resign from office by submitting a written message to the Assembly of the Republic.
2. Resignation becomes effective with acknowledgement of the message by the Assembly of the Republic, without prejudice to its subsequent publication in the Gazette of the Republic.

(Former paragraph 1 stated: "temporary impediment or absence" and stipulated in its final portion: "or, in the event that the latter has been dissolved, the Revolutionary Council member appointed by the latter." Former paragraph 2 provided: "the chairman of the Assembly of the Republic cannot exercise his office as a member of the Assembly.")

#### Subsection II. Jurisdiction.

#### Article 136 (Jurisdiction Regarding Functioning of Other Organs)

With regard to other organs, the president of the republic shall be entitled: a) to preside over the Council of State; b) to schedule the date of elections for president of the republic, for members of the Assembly of the Republic and Regional Assemblies, in harmony with the election law; c) to call a special session of the Assembly of the Republic; d) to submit messages to the Assembly of the Republic; e) to dissolve the Assembly of the Republic, observing the provisions of Article 175 and hearing from the parties represented therein and the Council of State; f) to appoint the prime minister, in accordance with the provisions of paragraph 1 of Article 190; g) to dismiss the government, in accordance with the provisions of paragraph 2 of Article 198, and to dismiss the prime minister, in accordance with the provisions of paragraph 4 of Article

189; h) to appoint and dismiss members of the government on the recommendation of the prime minister; i) to preside over the Council of Ministers when so requested by the prime minister; j) to dissolve the organs of autonomous regions on his own initiative or on the recommendation of the government, after hearing from the Assembly of the Republic and the Council of State; l) to appoint and dismiss, on the recommendation of the government and after hearing from the Council of State, the ministers of the republic for autonomous regions; m) to appoint and dismiss, on the recommendation of the government, the president of the Court of Accounts and the prosecutor general of the republic; n) to appoint five members of the Council of State and two voting members of the High Council of Magistrates; o) to preside over the High Council of National Defense; p) to appoint and dismiss, on the recommendation of the government, the chief of the general staff of the armed forces, the deputy chief of the general staff of the armed forces when one exists, and the chiefs of staff of the three branches of the armed forces after hearing from, in the latter two cases, the chief of the general staff of the armed forces.

(In paragraph a), the expression "Revolutionary Council" has been deleted. In paragraph e), the expression "after first appearing favorable to the Revolutionary Council or, compulsorily, in the cases stipulated in paragraph 3 of Article 198, which stated the case of approval of motions of censure or rejection of motions of confidence, with replacement of the government" has been deleted. Paragraphs f) and g) are an expansion of former paragraph f). Paragraphs h) and i) are the former paragraphs g) and h). In paragraph j), former paragraph i), the expression "or to suspend" has been withdrawn. Former paragraph j), which referred to the Constitutional Committee--"to appoint one of the members"--and the Advisory Committee for matters of the autonomous regions--"to appoint the chairman"--has been deleted. In paragraph m), former paragraph l), the expression and government representatives in autonomous regions, whose spirit has been assigned to paragraph l), has been deleted.)

#### Article 137 (Jurisdiction Regarding Performance of Own Actions)

1. In the performance of his own actions, the president of the republic shall be entitled: a) to exercise the functions of commander in chief of the armed forces; b) to enact and promulgate laws, decree-laws and regulatory decrees, as well as approving other government decrees; c) to declare martial law or a state of emergency, observing the provisions of Articles 19 and 141; d) to issue decisions concerning all serious emergencies for the life of the republic; e) to grant pardons and commute sentences; f) to request of the Constitutional Court advance evaluation of the constitutionality of continuing standards of laws, decree-laws and international agreements; g) to request of the Constitutional Court a declaration of the unconstitutionality of legal standards, as well as confirmation of the existence of unconstitutionality by omission; h) to implement the actions pertaining to the territory of Macau as provided in the respective statute; i) to award decorations, in accordance with law, and to exercise the office of grand master of Portuguese orders of honor.

(Former paragraphs 2 and 3, concerning matters of legal disposition, have been deleted. The content of Article 2--lack of promulgation--became Article 140. Former paragraph 3--martial law and state of emergency--became Article 19,

with new wording. In paragraph a), the expression "the duties" has been replaced. In paragraph b), the expression "laws of the Assembly of the Republic and decrees--regulatory decrees and laws of the Revolutionary Council and the government, as well as approving other government decrees" has been changed. In paragraph d), the expression "after hearing from the Revolutionary Council" has been deleted.)

#### Article 138 (Jurisdiction in International Affairs)

In international affairs, the president of the republic is entitled: a) to appoint ambassadors and special envoys, on the recommendation of the government, and to accredit foreign diplomatic representatives; b) to ratify international treaties after they are duly approved; c) to declare war in the event of imminent or actual aggression and to make peace, on the recommendation of the government, after hearing from the Council of State and with the authorization of the Assembly of the Republic or, when the latter is not in session or its immediate assembly is impossible, from its Standing Committee.

(In paragraph c), the expression "with the authorization of the Revolutionary Council" has been deleted.)

#### Article 139 (Promulgation and Veto)

1. Within 20 days after receipt of any decree by the Assembly of the Republic to be promulgated as law, or from publication of the Constitutional Court's decision that it cannot issue a ruling on the unconstitutionality of its content, the president of the republic shall promulgate the decree or exercise his right of veto, requesting a new evaluation of the document in a justified message.

2. If the Assembly of the Republic confirms its vote by an absolute majority of its current members, the president of the republic shall promulgate the document within 8 days after receiving it.

3. Besides an absolute majority of current Assembly members, a two-thirds majority of members will nevertheless be required for confirmation of decrees concerning the following: a) foreign affairs; b) martial law or state of emergency procedures; c) divisions between the sectors of public, private and cooperative ownership; d) organization of national defense and establishment of responsibilities deriving therefrom; e) general bases of organization and operation of armed forces; f) organization, operation and proceedings of the Constitutional Court; g) regulation of electoral acts stipulated by its constitution.

4. Within 40 days from receipt of any government decree to be promulgated, or from publication of the Constitutional Court's decision that it cannot rule on the unconstitutionality of its content, the president of the republic shall promulgate the decree or exercise his right to veto, issuing a written notification to the government as to the sense of the veto.

5. The president of the republic shall also exercise his right of veto in accordance with the provisions of Article 278 and Article 279.

(In paragraph 1, the expression "15 days" and the text of the final portion, which stipulated "or from the end of the period specified in Article 277, if the Revolutionary Council cannot issue a ruling on unconstitutionality, the president of the republic may, after hearing from the Revolutionary Council and in a justified message, exercise his right of veto, requesting a new evaluation of the document" have been changed. In paragraph 2, the expression "number of Assembly members" has been replaced and the expression "promulgation cannot be refused" has been changed. In paragraph 3, the expression "qualified two-thirds majority" has been changed. Paragraph a) was paragraph b). Paragraph c) was paragraph a), the hierarchization between cooperative and private property having been changed. Paragraph d) was paragraph e). Paragraph g) was paragraph d). Paragraph 5 was former paragraph 4, the statement "Articles 278 and 279" have been changed.)

#### Article 140 (Lack of Promulgation or Approval)

The lack of promulgation or approval by the president of the republic of any of the acts specified in paragraph b) of Article 137 implies their legal invalidity.

(This was former paragraph 2 of Article 137. Former Article 140 became Article 142.)

#### Article 141 (Declaration of Martial Law or State of Emergency)

1. The declaration of martial law or a state of emergency is subject to a government hearing and authorization by the Assembly of the Republic or, when the latter is not in session or its immediate assembly is impossible, from the respective Standing Committee.

2. The declaration of martial law or a state of emergency, when authorized by the Standing Committee of the Assembly of the Republic, must be ratified by the full Assembly as soon as it is possible to do so.

(Development of spirit of former paragraph 3 of Article 137, which became part of Article 19. Former Article 141 became Article 143.)

#### Article 142 (Acts of Interim President of the Republic)

1. An interim president of the republic cannot perform any of the acts listed in paragraphs e) and n) of Article 136.

2. An interim president of the republic may only perform any of the acts listed in paragraphs b), c), f) m) and p) of Article 136, in paragraph a) of Article 137 and in paragraph a) of Article 138, following a hearing before the Council of State.

(This was former Article 140, which stipulated: "An interim president of the republic cannot perform any of the acts listed in paragraphs b), c), f) and i) of Article 136, a) of paragraph 1 of Article 137 and a) of Article 138 without a favorable decision by the Revolutionary Council." Former Article 142, referring to the Revolutionary Council, has been deleted.)

#### Article 143 (Joint Ministerial Approval)

1. Acts of the president of the republic performed under paragraphs h), j), l), m) and p) of Article 136, paragraphs b), c) and e) of Article 137 and paragraphs a), b) and c) of Article 138 require the joint approval of the government.

2. The lack of joint approval implies the legal invalidity of the act.

(This was former Article 141. In paragraph 1, the altered portion referred only to matters of legal disposition. Paragraph 2 was former paragraph 3. Former paragraph 2, regarding the joint approval of acts of the Revolutionary Council involving increased spending or the reduction of income, has been deleted. Former Article 143, concerning the composition of the Revolutionary Council, has been deleted.)

#### Subsection III. Council of State.

##### Article 144 (Definition)

The Council of State is the political advisory body of the president of the republic.

##### Article 145 (Composition)

The Council of State is chaired by the president of the republic and is composed of the following members: a) the chairman of the Assembly of the Republic; b) the prime minister; c) the president of the Constitutional Court; d) the minister of justice; e) the presidents of regional governments; f) former presidents of the republic elected under the current constitution and who have not been dismissed from office; g) five citizens appointed by the president of the republic for a period corresponding to the duration of his term in office; h) five citizens elected by the Assembly of the Republic, in keeping with the principle of proportionate representation, for a period corresponding to the duration of the legislature.

##### Article 146 (Inauguration and Term of Office)

1. Members of the Council of State are sworn in by the president of the republic.

2. The Council of State members listed in paragraphs a) and e) of Article 145 shall continue with their duties as long as they hold the respective offices.

3. Council of State members listed in paragraphs g) and h) of Article 145 shall continue with their duties until the inauguration of their replacements in the exercise of their respective offices.

##### Article 147 (Organization and Functions)

1. The Council of State is entitled to make its own regulations.

2. Meetings of the Council of State are not open to the public.

#### Article 148 (Jurisdiction)

The Council of State is entitled: a) to express its view concerning the dissolution of the Assembly of the Republic and of the organs of autonomous regions; b) to express its view concerning dismissal of the government, in the instance listed in paragraph 2 of Article 198; c) to express its opinion concerning the appointment and dismissal of ministers of the republic for autonomous regions; d) to express its opinion on a declaration of war and the making of peace; e) to express its views on the acts of an interim president of the republic, as listed in Article 142; f) to express its views in the other cases prescribed by the constitution and, in general, to advise the president of the republic concerning the exercise of his office when so requested by him.

#### Article 149 (Issuance of Opinions)

The opinions of the Council of State as listed in paragraphs a) and e) of Article 148, shall be issued in the meeting called for that purpose by the president of the republic and shall be published when the act to which they refer is carried out.

### Section III. Assembly of the Republic.

#### Subsection I. Status and Election.

#### Article 150 (Definition)

The Assembly of the Republic is the representative assembly of all Portuguese citizens.

(This was Section IV. The entire former Section III, Articles 142 to 149, referring to the Revolutionary Council, has been deleted.)

#### Article 151 (Composition)

In accordance with the electoral law, the Assembly of the Republic shall have a minimum of 240 members and a maximum of 250 members.

#### Article 152 (Electoral Districts)

1. Members shall be elected by the electoral districts established by law.
2. The number of members from each district of national territory is proportional to the number of registered voters therein.
3. Assembly members represent the entire country and not just the districts from which they are elected.

#### Article 153 (Conditions of Eligibility)

Portuguese citizens who are registered voters are eligible, with the exception of the restrictions established by the electoral law by virtue of local incompatibilities or the exercise of certain duties.



#### Article 154 (Candidacies)

1. Candidacies are submitted, in accordance with law, by political parties, individually or in combination; the tickets may include citizens who are not members of the respective parties.
2. No one may be a candidate for more than one electoral district or be listed on more than one ticket.

#### Article 155 (Electoral System)

1. Assembly members are elected according to the system of proportionate representation and Hondt's method of the highest average.
2. The law may not establish limits on the conversion of votes into elected office by requiring a minimum national percentage of votes.

#### Article 156 (Beginning and End of Term of Office)

1. The term of office of Assembly members shall begin with the first meeting of the Assembly of the Republic after the elections and shall end with the first meeting after the subsequent elections, without prejudice to suspension or individual termination of the term of office.
2. The filling of vacancies which occur in the Assembly, as well as the temporary replacement of Assembly members for an important reason, are regulated by the electoral law.

(The title was formerly "Vacancies and Replacement of Assembly Members." Former Article 156 is the current paragraph 2.)

#### Article 157 (Incompatibilities)

1. Assembly members who have been appointed members of the government cannot exercise their offices until termination of these functions, being replaced in accordance with the terms of the preceding article.
2. The law shall determine other incompatibilities.

(Paragraph 1 was former paragraph 2. Paragraph 1, which has been deleted, stipulated: "Assembly members who are officials of the government or of other public corporations cannot exercise the respective duties during the Assembly's current session.")

#### Article 158 (Exercise of Duties of Assembly Members)

1. Assembly members are guaranteed suitable conditions for the effective exercise of their duties, in particular for essential contact with registered voters.
2. The law shall regulate the conditions in which the absence of Assembly members, because of Assembly sessions or missions, official activities or acts alien to it constitute a justified reason for adjournment of the former.

(Former paragraph 1 has been deleted, which specified: "Assembly members cannot be prejudiced in their situation, social benefits or regular employment by virtue of discharging their offices.")

#### Article 159 (Powers of Assembly Members)

In addition to those prescribed by regulations, the following constitute powers of Assembly members: a) to submit proposed constitutional revisions; b) to submit draft laws or resolutions and proposals for discussion; c) to question the government concerning any of its actions or those of the Public Administration; d) to demand and obtain from the government or from the organs of any public agency the items, data and official publications which they consider useful for exercising their offices; e) to require the establishment of parliamentary commissions of inquiry.

(Paragraphs b), c) and d) are the former paragraphs a), b) and c).)

#### Article 160 (Immunities)

1. Assembly members are not civilly, criminally or disciplinarily liable for the votes and opinions which they express in the exercise of their duties.
2. No Assembly member may be held or imprisoned without the authorization of the Assembly, except for crimes punishable by major penalties and in flagrante delicto.
3. If criminal proceedings are instituted against any Assembly member and the latter is finally indicted by issuance of an indictment or the equivalent, except in the case of a crime punishable by a major penalty, the Assembly shall decide whether or not the Assembly member is to be suspended, for the purpose of continuation of the proceedings.

#### Article 161 (Rights and Privileges)

1. Assembly members cannot act as jurors, experts or witnesses without the permission of the Assembly during the time that it is actually in session.
2. Assembly members shall enjoy the following rights and privileges: a) exemption from military service, civic service or civil mobilization; b) free transit and the right to special passports in their official journeys abroad; c) special identification cards; d) subsidies prescribed by law.

#### Article 162 (Duties)

The following constitute duties of Assembly members: a) attending the respective session; b) discharging their duties in the Assembly and the offices to which they are appointed, on the recommendation of the respective parliamentary groups; c) participating in votes.

#### Article 163 (Loss and Resignation of Office)

1. Office shall be forfeited by Assembly members who: a) are penalized by the full Assembly and for having any of the disqualifications or incompatibilities specified by law; b) do not take their seats in the Assembly or exceed

the number of absences specified in the regulations; c) register with a party other than the one on whose ticket they were elected; d) are legally condemned for participation in organizations embracing fascist ideology.

2. Assembly members may resign from office by submitting a written statement.

## Subsection II. Faculties.

### Article 164 (Political and Legislative Faculties)

The Assembly of the Republic shall have the right to: a) approve changes in the constitution, in accordance with the terms of Articles 286 to 291; b) to approve the political-administrative statutes of autonomous regions; c) to approve the statutes of the territory of Macau; d) to make laws concerning all matters, except those reserved by the constitution for the government; e) to confer legislative authority on the government; f) to grant amnesties and general pardons; g) to approve the law of the Plan and state budget; h) to authorize the government to contract and to grant loans and to conclude other credit operations which are not in a floating currency, defining the respective general conditions and establishing the maximum limit of collateral security to be granted each year by the government; i) to approve agreements regarding its reserved legislative powers, agreements for Portugal's participation in international organizations, treaties of friendship, peace, defense, rectification of borders, military affairs and any others submitted by the government; j) to authorize and confirm the declaration of martial law and a state of emergency; f) to authorize the president of the republic to declare war and make peace; m) to discharge the other duties attributed to it by the constitution and by law.

(In paragraph d), the expression "to the Revolutionary Council or" has been deleted. Former paragraph g) referred "to the laws of the Plan and the budget." Former paragraph h) specified "to conclude loans and other credit operations" and "establishing." Former paragraph i) has been deleted, which specified: "to define the limits of territorial waters and Portugal's rights to contiguous seabeds," which become Article 167. Paragraph i) is the former paragraph j) and referred to "exclusive legislative powers." Former paragraph l) became paragraph m).)

### Article 165 (Supervisory Faculties)

In the exercise of supervisory functions, the Assembly of the Republic has the right to: a) see that the constitution and the laws are respected and to evaluate the actions of the government and the administration; b) evaluate the implementation of a declaration of martial law or state of emergency; c) evaluate decree-laws, for the purpose of refusal of ratification or of alteration, except for those declared in the exercise of the government's exclusive legislative faculties; d) review the accounts of the government and of other public agencies specified by law, which shall be submitted by 31 December of the following year, together with the report of the Court of Accounts, if one has been prepared, and the other items necessary for their evaluation; e) to evaluate the annual and final implementation reports on the Plan, which shall be submitted together with statements of public accounts.

(Former paragraph b) stipulated: "to ratify the declaration of martial law or a state of emergency exceeding 30 days, under pain of expiration within this period." Former paragraph c), which has been reworded, referred to "ratify.")

#### Article 166 (Faculties Regarding Other Organs)

With regard to other organs, the Assembly of the Republic shall have the right: a) to bear witness to the inauguration of the president of the republic; b) to approve the absence of the president of the republic from national territory; c) to institute impeachment proceedings against the president of the republic for crimes committed in the exercise of his duties and to decide on the suspension of members of the government in the instance specified in Article 199; d) to evaluate the government's program; e) to approve motions of confidence and censure regarding the government; f) to declare the dissolution of organs of autonomous regions; g) to select, according to the system of proportionate representation, five members of the Council of State; h) to select, by a two-thirds majority of Assembly members present, as long as there is more than an absolute majority of the current Assembly members, 10 judges of the Constitutional Court, the minister of justice, the chairman of the National Plan Council, 7 voting members of the High Council of Magistrates, 11 members of the Mass Media Council and members of other constitutional organs whose appointment is entrusted to the Assembly of the Republic.

(The former title stated "In Relation." The introduction stated "In Relation." Paragraphs d), e) and f) are the former paragraphs a), b) and c), with the expression "or suspension" having been deleted in the latter paragraph. Former paragraph d) has been deleted, which stated "to appoint the minister of justice, one of the ministers of the Constitutional Commission and two members of the advisory committee for matters of autonomous regions.")

#### Article 167 (Absolute Reservation of Legislative Authority)

It is the exclusive jurisdiction of the Assembly of the Republic to legislate on the following matters: a) acquisition, loss and reacquisition of Portuguese citizenship; b) definition of the limits of territorial waters, the exclusive economic zone and Portugal's rights to contiguous seabeds; c) administration of martial law or state of emergency; d) political parties and associations; e) bases of the educational system; f) elections of the heads of the organs of sovereignty, of autonomous regions and of local governments, as well as of the other constitutional organs; g) status of the heads of the organs of sovereignty and of local governments, the Council of State and the minister of justice, including the administration of their respective compensations; h) organization, function and procedures of the Constitutional Court; i) inclusion in the jurisdiction of court-martials of serious crimes comparable to essentially military crimes, in accordance with the terms of paragraph 2 of Article 218; j) administration of the establishment, abolishment and territorial modification of local government; l) direct consultation with voters at the local level; m) restrictions of the exercise of rights for soldiers and military agents of regular cadres in actual service; n) organization of national defense, definition of responsibilities deriving therefrom and general bases of organization, function and discipline of the armed forces.

(In the 1976 text, the item on the "absolute" reservation of legislative power did not exist. All reservation was relative; the government could be authorized to legislate on matters under the exclusive jurisdiction of the Assembly of the Republic, as specified by former Article 168, just as it now makes that stipulation, but for matters not contained in this Article 167. With regard to the listing of this stipulation, paragraphs g), h), j), l) and m) are new in relation to the 1976 text.)

#### Article 168 (Relative Reservation of Legislative Authority)

1. It is the exclusive jurisdiction of the Assembly of the Republic to legislate on the following matters, except for authorization to the government:

- a) status and capacity of persons; b) rights, liberties and guarantees,
- c) definition of crimes, penalties, security measures and respective proposals, as well as criminal proceedings; d) general system for punishing disciplinary violations as well as illegitimate acts of a purely social nature and the respective proceedings; e) general system for requisition and expropriation for public purposes; f) bases of the social security system and national health service; g) bases of the system for protection of the environment, ecological balance and cultural wealth; h) general system for rural and urban leasing; i) establishment of taxes and the tax system; j) definition of the sectors of ownership of the means of production, including definition of the basic sectors in which the activities of private corporations and other entities of the same nature are prohibited; l) ways and means of intervention and of nationalization and socialization of the means of production, as well as criteria for establishing compensation; m) planning system, composition of the National Plan Council, determination of plan regions and definition of the scheme of regional planning organs; n) bases of agrarian reform, including criteria for establishing the maximum limits of privately operated agricultural units; o) monetary system and weight and measurement standards; p) general system for preparation and organization of state budgets, of autonomous regions and of local governments; q) organization and jurisdiction of courts and of the Public Ministry and status of the respective magistrates; r) status of local governments, including the administration of local finances; s) participation of fundamental public organizations in the exercise of local government; t) public associations, guarantees of those administered and civil liability of the administration; u) bases of the system and scope of public functions; v) status of public corporations; x) definition and system of public property.

2. Legislative authorization laws shall define the subject, purpose, extension and duration of the authorization, which may be extended.

3. Legislative authorizations cannot be used more than once, without prejudice to their partial implementation.

4. Authorizations expire with the resignation of the government to which they were granted, with the adjournment of the legislature or with the dissolution of the Assembly of the Republic.

(This incorporates former Articles 167 and 168, with the deletion of former paragraphs a), d), f), g), l), n) and u) of former Article 167, which were

transferred to the new Article 167 as paragraphs a), c), f), d), n), e) and g). Paragraphs b), c) i), o), p) q) r), s) and t) of former Article 167 became paragraphs a), b), s), i), j), l) n), o) and m) of this Article 168. Former paragraphs e), h), j) and m) of Article 167 became paragraphs c), r), q) and u) of the present Article 168. In paragraph q), the expression "except with regard to courts-martial, without prejudice to the provisions of paragraph 2 of Article 218" has been deleted. In paragraph r), the word "organization" was replaced. Paragraphs 2, 3 and 4 are the former paragraphs 1, 2 and 3 of Article 168).

#### Article 169 (Form of Acts)

1. The acts specified in paragraph a) of Article 164 take on the form of constitutional law.
2. The acts specified in paragraphs b) to h) and j) of Article 164 take on the form of law.
3. The acts specified in paragraph d) and e) of Article 166 take on the form of a motion.
4. The other acts of the Assembly of the Republic, as well as the Standing Committee's acts specified in paragraphs e) and f) of paragraph 3, Article 182, take on the form of resolutions.
5. Resolutions are published regardless of promulgation.

(The expression "in paragraphs b) to j) of Article 164 and in paragraph b) of Article 165" in paragraph 2 has been replaced. In paragraph 3, the expression "in paragraphs a) and b) of Article 166" has been replaced. In paragraph 5, the qualification "except those approved by international treaties" has been deleted.)

#### Article 170 (Legislative Initiative)

1. The introduction of law is the right of Assembly members, parliamentary groups and the government, as well as, in the case of autonomous regions, the respective regional assemblies.
2. Assembly members, parliamentary groups and regional assemblies cannot submit bills, draft laws or propose amendments which involve, in the economic year in progress, an increase in the expenses or a reduction of the revenues of the government, as provided by the budget.
3. Bills and draft laws conclusively rejected cannot be resubmitted in the same legislative session, except for a new election of the Assembly of the Republic.
4. Bills and draft laws not approved in the legislative session in which they were submitted do not need to be resubmitted in following legislative sessions, except for conclusion of the legislature.

5. Draft laws expire with resignation of the government or, in the case of a regional assembly initiative, with conclusion of the respective legislature.

6. Parliamentary committees may submit alternate texts, without prejudice to the bills and draft laws to which they refer when not withdrawn.

(In paragraph 2, the expression "budget law" has been changed. In paragraph 4, the expression "dissolution of the assembly and, in the case of draft laws, dismissal of the government" has been deleted. The latter is recognized in paragraph 5, with the change from "dismissal" to "resignation.")

#### Article 171 (Debate and Voting)

1. Debate on bills and draft laws includes a general and a specific debate. Voting includes a general vote, a specific vote and a final overall vote.

3. If the Assembly debates in this way, texts approved in general will be voted on specifically by the committees, without prejudice to the power of appeal by the Assembly and final vote of the latter for overall approval.

4. Laws on the matters specified in paragraphs a), c), d) and j) of Article 167, as well as in paragraphs r) and s) of Article 168, must be voted on specifically by the plenary session.

5. The law specified in paragraph m) of Article 167 must be approved by a two-thirds majority of the Assembly members present, as long as there is more than an absolute majority of the current Assembly members.

(Paragraphs 3 and 4 are the former paragraphs 2 and 3. In paragraph 4, the expression "in paragraphs a), d), g), h) and i) of Article 167" has been changed.)

#### Article 172 (Ratification of Decree-Laws)

1. Decree-laws, except for those approved in the exercise of the government's exclusive legislative authority, may be submitted for evaluation by the Assembly of the Republic, for purposes of amendment or refusal of ratification, at the request of 10 Assembly members, in the first 10 plenary sessions subsequent to publication.

2. If evaluation is required, and in the event that proposed changes are submitted, the Assembly shall be able to suspend, wholly or partly, the effectiveness of the decree-law until publication of the law which it is intended to change or until rejection of all such proposals.

3. If ratification should be refused, the decree-law shall cease to be effective from the day on which the resolution is published in the Official Gazette of the Republic and cannot be republished within the same legislative session.

(Paragraphs 1 and 2 are a reformulation of former paragraphs 1, 2 and 3, which specified:

"1. In the case of decree-laws published by the government during the functioning of the Assembly of the Republic, ratification shall be considered granted if, in the first 15 meetings subsequent to publication of the document, at least 5 Assembly members do not request that it be submitted for ratification.

2. In the case of decree-laws published by the government outside the functioning of the Assembly of the Republic or in the use of legislative authorizations, ratification shall be considered granted if, in the first five meetings subsequent to publication of the document, at least 20 Assembly members do not request that it be submitted for ratification.

3. Ratification may be granted with amendments and, in such case, the decree-law shall be amended in accordance with the terms of the law which the Assembly shall approve."

Paragraph 4 is the former paragraph 3.)

#### Article 173 (Urgent Process)

1. The Assembly of the Republic may, on the initiative of any Assembly member or any parliamentary group or the government, declare urgent the processing of any bill or draft law or resolution.

2. The Assembly may also, on the initiative of the regional assemblies of the Azores or Madeira, declare urgent the processing of any draft law of their initiative.

(Paragraph 1 constitutes the former Article 173, with the expression "as well as evaluation of the decree-law, whose examination shall be recommended to it by the Standing Committee" having been withdrawn in the final portion.)

#### Subsection III. Organization and Function.

#### Article 174 (Legislature)

1. The legislature shall have a duration of four legislative sessions.

2. In the event of dissolution, the then elected Assembly begins a new legislature, whose duration will initially be increased by the time necessary to complete the period corresponding to the legislative session in progress on the date of the election.

(In paragraph 1, the word "years" has been changed. In paragraph 2, the expression "shall not begin a new legislature" has been replaced. Former paragraph 3 has been deleted, which stipulated: "With the election being verified, by virtue of dissolution, during the time of the last legislative session, it is the duty of the Assembly to complete the legislature in progress and to conclude the following.")



#### Article 175 (Dissolution)

1. The Assembly of the Republic cannot be dissolved in the 6 months following its election, in the final 6-month period of the term of office of the president of the republic or during the effective period of martial law or state of emergency.
2. Failure to observe the provisions of the preceding paragraph shall result in the legal invalidity of the decree of dissolution.
3. Dissolution of the Assembly does not prejudice the existence of the term of office of Assembly members, nor the jurisdiction of the Standing Committee, until the initial meeting of the Assembly following the subsequent elections.

(Former paragraph 1 has been deleted, which stipulated: "A decree dissolving the Assembly of the Republic shall note the date of new elections, which shall be held within 90 days, in accordance with the electoral law current at the time of dissolution." Paragraph 1 is the former paragraph 2. In paragraph 2, former paragraph 1, the expression "in this article" has been changed.)

#### Article 176 (Meeting Following Elections)

1. The Assembly of the Republic shall meet by its own right on the third day following verification of the final results of the elections or, in the case of elections upon conclusion of the legislature, if that day should fall prior to conclusion of the legislature, on the first day of the subsequent legislature.
2. If that date does not fall within the Assembly's actual period of operation, the Assembly shall therefore meet as specified by Article 178.

(In paragraph 1, the expression "tenth" has been changed. In paragraph 2, the expression "outside the legislative session" has been changed.)

#### Article 177 (Legislative Session, Period of Operation and Convocation)

1. The legislative session shall have a duration of 1 year and shall begin on 15 October.
2. The normal period of operation of the Assembly of the Republic runs from 15 October to 15 June, without prejudice to the suspensions which the Assembly, deliberation of plenary session, extend, thirds of the Assembly members present.
3. Outside the period noted in the preceding paragraph, the Assembly of the Republic may function by deliberation of the plenary session, extending the normal period of operation, on the initiative of the Standing Committee or, in the impossibility of this and in the event of a serious emergency, on the initiative of more than half of the Assembly members.
4. A special session of the Assembly may also be called by the president of the republic to handle special matters.

(Former paragraphs 1, 2 and 3 became paragraphs 2, 3 and 4.)

#### Article 178 (Internal Jurisdiction of Assembly)

The Assembly of the Republic has the right to: a) prepare and approve its internal regulations in accordance with the constitution; b) elect, by an absolute majority of current Assembly members, its chairman and the other members of the board, with the four deputy chairmen elected on the recommendation of the four major parliamentary groups; c) establish the Standing Committee and the remaining committees.

(Expansion of former Article 178. In paragraph c), the word "to elect" has been changed.)

#### Article 179 (Agenda of Plenary Session)

1. The agenda is established by the chairman of the Assembly of the Republic, according to the priority of matters defined in the regulations.
2. The government may request priority for matters of national interest requiring urgent resolution.
3. All parliamentary groups have the right to determine the agenda of a certain number of meetings, according to criteria to be established in the regulations, always excepting the position of minority parties or those not represented in the government.

#### Article 180 (Participation of Members of Government)

1. Ministers have the right to attend plenary sessions of the Assembly of the Republic and may be assisted or replaced by secretaries of state and either may speak, in accordance with the regulations.
2. Meetings shall be held in which members of the government shall be present to answer Assembly members' questions and requests for clarification, whether oral or written, which shall be made with the minimum regularity stipulated in the regulations and on the dates to be established in agreement with the government.
3. Committees may request the participation of members of the government in their proceedings.

(In the title, the expression "in plenary sessions" has been deleted. In paragraph 1, the expression "members of the government" has been changed. In paragraph 2, the expression "meetings may be held, in accordance with the government" has been changed. Paragraph 3 corresponds to former paragraph 2 of Article 181.)

#### Article 181 (Committees)

1. The Assembly of the Republic shall have the committees stipulated in the regulations and may establish possible committees of inquiry or for any other specified purpose.

2. The composition of the committees shall correspond to the representativeness of the parties in the Assembly.

3. The petitions submitted to the Assembly shall be evaluated by the committees, which may request the testimony of any citizen.

4. Without prejudice to their establishment in general terms, parliamentary committees of inquiry must be established whenever such is required by one-fifth of the current Assembly members, up to the limit of one per Assembly member and per legislative session.

5. Parliamentary committees of inquiry shall enjoy investigative powers proper to judicial authorities.

6. The chairmanships of committees are, on the whole, distributed among parliamentary groups in proportion to the number of their Assembly members.

(Former paragraph 2 constitutes paragraph 3 of Article 180.)

#### Article 182 (Standing Committee)

1. Outside the actual period of operation of the Assembly of the Republic, during the period in which it is dissolved, and in the other instances prescribed by the constitution, the Standing Committee of the Assembly of the Republic shall function.

2. The Standing Committee is chaired by the chairman of the Assembly of the Republic and is composed of the deputy chairmen and Assembly members appointed by all parties in accordance with their respective representativeness in the Assembly.

3. The Standing Committee shall have the right: a) to follow the activities of the government and the administration; b) to exercise the powers of the Assembly relative to the office of Assembly members; c) to promote convocation of the Assembly whenever necessary; d) to prepare for the opening of the legislative session; e) to approve the absence of the president of the republic from national territory; f) to authorize the president of the republic to declare martial law or a state of emergency, to declare war and to make peace.

4. In the case of paragraph f) of the preceding paragraph, the standing committee shall encourage convocation of the Assembly as soon as possible.

(In paragraph 1, the expression "in the intervals or suspensions of legislative sessions" has been changed. Paragraph 3 is the former paragraph 2. Former paragraph e), which stipulated: "to recommend the examination of decree-laws published by the government outside the actual operation of the Assembly" has been deleted.)

#### Article 183 (Parliamentary Groups)

1. Assembly members elected by each party or coalition of parties may establish themselves as a parliamentary group.

2. The rights of each parliamentary group include: a) participating in Assembly committees on the basis of the number of their representatives in the Assembly; b) being heard in establishing an agenda; c) requiring, by means of a formal demand to the government, the opening of two debates in each legislative session on matters of general policy; d) requesting that the Standing Committee encourage convocation of the Assembly; e) requiring the establishment of parliamentary committees of inquiry; f) exercising legislative initiative; g) submitting motions for rejection of the government's program; h) submitting motions for censure of the government; i) being regularly and directly informed, by the government, as to the development of principal matters of public interest.

3. Each parliamentary group has the right to working quarters in the Assembly, as well as technical and administrative personnel whom it trusts, in accordance with the terms to be established by law.

#### Article 184 (Officials and Experts in Service to the Assembly)

The proceedings of the Assembly and those of its committees shall be assisted by a permanent staff of technical and administrative officials and by required or temporarily contracted experts, in the number considered necessary by the chairman of the Assembly.

#### Section IV. Government.

##### Subsection I. Function and Structure.

#### Article 185 (Definition)

The government is the organ which implements the general policy of the country and the highest organ of Public Administration.

(This was Section V. Paragraph 2 of the article has been deleted, which stipulated: "The government shall define and execute its policy with respect for the constitution, in a manner in keeping with the goals of democracy and the construction of socialism.")

#### Article 186 (Composition)

1. The government shall be composed of the prime minister, the ministers and the secretaries and assistant secretaries of state.

2. The government may include one or more deputy prime ministers.

3. The number, appointment and prerogatives of the ministries and secretariats of state, as well as the forms of coordination among them, shall be determined, according to the case, by the decrees appointing the respective office holders or by decree-laws.

#### Article 187 (Council of Ministers)

1. The Council of Ministers is composed of the prime minister, the deputy prime ministers if any, and the ministers.

2. The law may create special Councils of Ministers for certain areas.
3. Secretaries and assistant secretaries of state may be summoned to participate in the meetings of the Council of Ministers.

#### Article 188 (Replacement of Members of Government)

1. When there is no deputy prime minister, the prime minister shall be replaced in his absence or when unable to perform his duties by the minister whom he specifies to the president of the republic or, in the absence of such specification, by the minister appointed by the president of the republic.
2. Each minister shall be replaced in his absence or when unable to perform his duties by the secretary of state whom he specifies to the prime minister or, in the absence of such specification, by the member of government appointed by the prime minister.

(The expression "having consulted with the Revolutionary Council" has been deleted in paragraph 1.)

#### Article 189 (Termination of Office)

1. The office of the prime minister shall begin with his inauguration and end with his dismissal by the president of the republic.
2. The offices of the other members of government begin with their inauguration and end with their dismissal or with the dismissal of the prime minister.
3. The offices of the secretaries and assistant secretaries of state also end with dismissal of the respective minister.
4. In the event of resignation of the government, the outgoing prime minister shall be dismissed on the date of the appointment and inauguration of the new prime minister.
5. Prior to evaluation of its program by the Assembly of the Republic, or subsequent to its resignation, the government shall be limited to the performance of actions which are strictly necessary to assure the administration of public affairs.

(In paragraph 2, the expression "all" has been replaced. In paragraph 4, the expression "the outgoing members of government shall retain their offices until the inauguration of the new government" has been replaced.)

#### Subsection II. Formation and Responsibility.

#### Article 190 (Formation)

1. The prime minister is appointed by the president of the republic after consultation with the parties represented in the Assembly of the Republic and taking into account election results.

2. The other members of the government are appointed by the president of the republic on the recommendation of the prime minister.

(The expression "the Revolutionary Council and" has been deleted in paragraph 1.)

#### Article 191 (Government Program)

The government's program shall include the principal political aims and measures to be adopted or to be proposed in the various areas of government activity.

(The former text specified: "The government's program shall include the principle political and legislative measures to be adopted or to be proposed to the president of the republic or to the Assembly of the Republic for implementation of the constitution.")

#### Article 192 (Government Solidarity)

The members of the government shall be bound by the government's program and by the decisions made by the Council of Ministers.

#### Article 193 (Responsibility of Government)

The government is responsible to the president of the republic and to the Assembly of the Republic.

(The expression "politically responsible" has been changed.)

#### Article 194 (Responsibility of Members of Government)

1. The prime minister is responsible to the president of the republic and, in the context of the government's political responsibility, to the Assembly of the Republic.

2. The deputy prime ministers and the ministers are responsible to the prime minister and, in the context of the government's political responsibility, to the Assembly of the Republic.

3. The secretaries and assistant secretaries of state are responsible to the prime minister and to the respective minister.

(In the title, the expression "political responsibility" has been changed. In paragraph 1, the expressions "politically responsible" and "governmental responsibility" have been changed. In paragraph 2, the expressions "politically responsible" and "governmental responsibility" have been changed. In paragraph 3, the expression "politically responsible" has been changed.)

#### Article 195 (Evaluation of Government's Program)

1. The government's program is subject to evaluation by the Assembly of the Republic, by a statement of the prime minister, within a maximum period of 10 days subsequent to his appointment.

2. If the Assembly of the Republic is not actually in session, it shall necessarily be convoked for that purpose by its chairman.
3. The debate cannot exceed 3 days and until it is concluded, any parliamentary group may recommend rejection of the program or the government may request approval by a vote of confidence.
4. Rejection of the government's program requires an absolute majority of current assembly members.

(The expression "by the Assembly of the Republic" has been deleted from the title. In paragraph 1, the expression "shall be submitted" has been changed. In paragraph 3, the expression "5 days" has been changed.)

#### Article 196 (Request for Vote of Confidence)

The government may request the Assembly of the Republic to approve a vote of confidence on a declaration of general policy or on any relevant matter of national interest.

#### Article 197 (Motions of Censure)

1. The Assembly of the Republic may pass motions censuring the government regarding the implementation of its program or a relevant matter of national interest on the initiative of one-fourth of the current Assembly members or any parliamentary group.
2. Motions of censure may only be evaluated 48 hours after being submitted, in a debate lasting not more than 3 days.
3. If the motion of censure is not approved, its signers cannot submit another motion of censure during the same legislative session.

#### Article 198 (Resignation of Government)

1. Resignation of the government implies: a) the beginning of a new legislature; b) acceptance by the president of the republic of the petition of resignation submitted by the prime minister; c) the death or permanent physical disability of the prime minister; d) rejection of the government's program; e) nonapproval of a motion of confidence; f) approval of a motion of censure by an absolute majority of current Assembly members.
2. The president of the republic may only dismiss the government when such becomes necessary to assure or to regulate the operation of democratic institutions, after consultation with the Council of State.

(The title, which was "Effects," has been changed. Clauses d), e) and f) are the former clauses a), b) and c). In the last paragraph, the expression "two motions of censure with, at least, a 30-day interval" has been changed. Former paragraphs 2 and 3 have been deleted, which stipulated: "2. The president of the republic cannot dissolve the Assembly because of rejection of the government's program, except in the event of three consecutive rejections.

3. The president of the republic shall be obliged to dissolve the Assembly of the Republic when the latter has rejected a vote of confidence or has passed a motion censuring the government, specifying for any of these reasons the third replacement of the government.")

#### Article 199 (Implementation of Civil and Criminal Liability of Members of Government)

Should criminal proceedings be instituted against a member of the government and should this be pointed out conclusively by a message of notification or the equivalent, except in the case of a crime punishable by a major penalty, the Assembly of the Republic shall decide whether or not the government member is to be suspended for the sake of continuation of the proceedings.

(This article replaced former Article 199, which specified: "1. The members of the government are civilly and criminally liable for the acts which they perform or legalize.

2. Should judicial proceedings be instituted against a member of the government for the commission of any crime and should this be indicated by a message of notification or the equivalent, the proceedings shall continue to their conclusion, in the event that the act corresponds to a major penalty, only if the member of government is suspended from the performance of his duties.")

#### Subsection III. Jurisdiction.

#### Article 200 (Political Jurisdiction)

1. In the exercise of political functions, the government shall have the right: a) to jointly approve the acts of the president of the republic in accordance with the terms of Article 143; b) to negotiate and adjust international agreements; c) to approve international agreements, as well as treaties whose approval is not within the jurisdiction of the Assembly of the Republic or which have not been submitted to the latter; d) to submit draft laws and resolutions to the Assembly of the Republic; e) to express its opinion concerning the declaration of martial war or a state of emergency; f) to propose the declaration of war or making of peace to the president of the republic; g) to submit to the Assembly of the Republic, in accordance with the terms of clause d) to Article 165, the accounts of state and of other public entities as prescribed by law; h) to perform the other acts assigned to it by the constitution or by law.

2. The approval of treaties and international agreements by the government shall have the form of a decree.

(In clause a), the expression "Article 141" has been changed. In paragraph c), the expression "of the Revolutionary Council or" has been withdrawn. Paragraph h) is the former clause d).)

#### Article 201 (Legislative Jurisdiction)

1. In the exercise of legislative functions, the government shall have the right: a) to make decree-laws concerning matters not reserved for the Assembly



of the Republic; b) to make decree-laws concerning matters of relative reserve for the Assembly of the Republic, with its authorization; c) to make decree-laws for development of the principles or general bases of judicial regulations contained in laws limited to them.

2. Matters pertaining to the government's own organization and operation are the exclusive legislative jurisdiction of the government.

3. The decree-laws specified in paragraphs b) and c) of paragraph 1 shall expressly invoke the law of legislative authorization or the basic law covering what is approved.

(In clause a), the expression "to the Revolutionary Council or" has been deleted. In clause b), the expression "matters reserved for" has been changed. Former paragraph 3, which stipulated "decree-laws not submitted to the Council of Ministers shall be signed by the prime minister and by the respective ministers" has been deleted and became part of paragraph 3 of Article 204.)

#### Article 202 (Administrative Jurisdiction)

In the exercise of administrative functions, the government shall have the right: a) to draw up the Plan, on the basis of the respective law, and to have it implemented; b) to have the state budget implemented; c) to make the regulations necessary for proper implementation of laws; d) to direct the services and activities for direct administration of the state, civilian and military, to supervise indirect administration and to exercise guidance concerning autonomous administration; e) to perform all acts required by law in regard to the officials and agents of the state and other public corporations; f) to defend democratic legality; g) to perform all actions and to take all measures necessary for promotion of economic-social development and satisfaction of collective needs.

(In clause b), the expression "to draw up the general state budget, on the basis of the respective law, and to have it implemented" has been changed. In clause d), the expression "to direct the services and activities for direct and indirect administration of the state and to supervise autonomous administration" has been changed.)

#### Article 203 (Jurisdiction of Council of Ministers)

1. The Council of Ministers shall have the right: a) to define the general characteristics of government policy, as well as of its implementation; b) to debate the petition of confidence to the Assembly of the Republic; c) to approve draft laws and resolutions; d) to approve decree-laws as well as international agreements not submitted to the Assembly of the Republic; e) to approve the Plan; f) to approve government acts involving an increase or reduction of public revenues and expenditures; g) to debate other matters of the government's jurisdiction assigned to it by law or submitted by the prime minister or by any minister.

2. Special Councils of Ministers shall have the jurisdiction assigned to them by law or delegated by the Council of Ministers.

(In clause d), the expression "which result in direct implementation of the government's program" has been replaced. In clause e), the expression "and the budget" has been deleted.)

#### Article 204 (Jurisdiction of Members of Government)

1. The prime minister shall have the right: a) to direct the general policy of the government, coordinating and orienting the actions of all ministers; b) to direct the operation of the government and its relations of a general nature with the other organs of state; c) to inform the president of the republic about matters pertaining to conducting the country's domestic and foreign policies; d) to carry out the other functions assigned to him by the constitution and by law.

2. Ministers shall have the right: a) to implement the policy established for their ministries; b) to handle relations of a general nature between the government and the other organs of state, within the scope of the respective ministries.

3. Decree-laws and other government decrees shall be signed by the prime minister and by the respective ministers, in accordance with the respective matter. (In clause b) of paragraph 1, the expressions "to establish" and "between him and the others" have been changed. Clause d) corresponds to former clause c). In clause b) of paragraph 2, the word "establish" has been changed. Paragraph 3 corresponds to former paragraph 3 of Article 201.)

#### Section V. Courts.

##### Subsection I. General Principles.

#### Article 205 (Definition)

The courts are the organs of sovereignty with jurisdiction to administer justice in the name of the people.

(Section VI of the 1976 text became Section V.)

#### Article 206 (Jurisdictional Function)

In the administration of justice, the courts are obliged to guarantee defense of citizens' legally protected rights and interests, to halt the violation of democratic legality and to resolve conflicts of public and private interest.

#### Article 207 (Assessment of Unconstitutionality)

In cases submitted for judgment, the courts may not apply standards which violate the provisions of the constitution or the principles listed therein.

(The former text specified that the courts could not "apply unconstitutional standards belonging to them, for the purpose, and without prejudice to the provisions of Article 282. [former]: to assess the existence of unconstitutionality.")

Article 208. (Independence)

The courts shall be independent and shall be subject only to the law.

Article 209. (Cooperation of Other Authorities)

In the exercise of their functions, the courts have the right to the cooperation of other authorities.

Article 210. (Courts Decisions)

1. Decisions of the courts shall be based on facts and in accordance with the terms specified by law.
2. Decisions of the courts are binding for all public and private entities and prevail over those of any other authorities.
3. The law shall regulate the terms for the implementation of court decisions relative to any authority and shall determine the sanctions to be applied to officials for their lack of implementation.

(The title of the former text "Implementations of Courts" has been replaced. Former paragraphs 1 and 2 became paragraphs 2 and 3.)

Article 211. (Court Sessions)

Court sessions are public, except when the court itself decides otherwise, in an explanatory communique, in order to protect the dignity of persons and public morality or to guarantee its normal operation.

Subsection II. Organization of Courts.

Article 212. (Categories of Courts)

1. The following categories of courts exist: a) the Constitutional Court; b) judicial courts of first instance, second instance and the Supreme Court of Justice; c) the Court of Accounts; d) courts-martial.
2. There may be administrative and tax courts, maritime courts and courts of arbitration.
3. The law shall determine the instances and the ways in which the courts specified in the preceding paragraph may be established, separately or together, in courts of disputes.
4. Without prejudice to the provisions regarding courts-martial, the existence of courts with exclusive jurisdiction for judging certain categories of crimes is prohibited.

(Paragraph 1 is an expansion of former paragraphs 1 and 2.)

#### Article 213 (Constitutional Court)

1. The Constitutional Court is responsible for determining unconstitutionality and illegality, in accordance with the terms of Articles 277 and following articles.

2. The Constitutional Court shall also be responsible for: a) confirming the death and declaring the permanent physical disability of the president of the republic, as well as confirming temporary impediments to the exercise of his office; b) confirming loss of the office of president of the republic, in the instances specified in paragraph 3 of Article 132 and in paragraph 3 of Article 133; c) confirming the death and declaring the incapability of exercising presidential duties of any candidate for president of the republic, in accordance with the provisions of paragraph 3 of Article 127; d) confirming in advance the constitutionality and legality of direct elections at the local level; e) exercising the other functions assigned to it by the constitution and by law.

(Former Article 213 became Article 216)

#### Article 214 (Supreme Court of Justice)

1. The Supreme Court of Justice is the highest organ in the hierarchy of judicial courts, without prejudice to the specific jurisdiction of the Constitutional Court.

2. The president of the Supreme Court of Justice is elected by the respective judges.

(Paragraph 1 of Article 214 was Article 215 of the former text. Former Article 214 became Article 215.)

#### Article 215 (Instances)

1. Courts of first instance are, as a rule, district courts, which shall be equal to those listed in paragraph 1 of the following article.

2. Courts of second instance are, as a rule, courts of appeal.

3. The Supreme Court of Justice shall function as a court of instance in the cases prescribed by law.

(This corresponds to Article 214 of the former text. Former Article 215 became Article 214.)

#### Article 216 (Specialization)

1. In the first instance, there may be courts with specific jurisdiction and special courts for judging certain matters.

2. Courts of appeal and the Supreme Court of Justice may function in special sections.

(This corresponds to Article 213 of the former text, whose paragraph 3 has been deleted. The deleted paragraph specified the prohibition of courts with exclusive jurisdiction for judging certain categories of crimes.)

#### Article 217 (Juries, Public Participation and Technical Consultation)

1. A jury shall be selected by the judges of the collective court and shall be composed of jurors, shall sit in judgment of serious crimes and shall function when required by the prosecution or the defense.
2. The law may create public judges and establish other forms of public participation in the administration of justice.
3. The law may establish the participation of technical consultants for judging certain matters.

(This corresponds to former Articles 216 and 217 with combination of the titles. Current paragraph 1 is a rewording of paragraphs 1 and 2 of former Article 216. Paragraphs 2 and 3 were paragraphs 1 and 2 of Article 217.)

#### Article 218 (Courts-Martial)

1. Courts-martial shall be responsible for judging military crimes.
2. For relevant reasons, the law may include within the jurisdiction of courts-martial serious crimes comparable to those listed in paragraph 1.
3. The law may assign to courts-martial jurisdiction for the application of disciplinary measures.

(The word "jurisdiction" in the former title has been deleted.)

#### Article 219 (Jurisdiction of Court of Accounts)

The Court of Accounts shall be responsible for issuing reports on the general accounts of state, examining the legality of public expenditures and judging the accounts submitted to it as required by law.

#### Subsection III. Statute of Judges.

#### Article 220 (Magistracy of Judicial Courts)

1. The judges of judicial courts shall form a single body and shall be governed by a single statute.
2. The law shall determine the requirements and rules for recruiting the judges of judicial courts of first instance.
3. Judges of judicial courts of second instance shall be recruited with priority given to the criterion of merit, by curricular competition among first-instance judges.

4. Access to the Supreme Court of Justice shall be by curricular competition open to judicial magistrates and those of the Public Ministry, and to other deserving jurists, as prescribed by law.

(The text of former Article 220 corresponds to paragraph 1 of the present article. The title "Statute of Judges" was introduced into the section's heading.)

#### Article 221 (Guarantees and Incompatibilities)

1. Judges are permanent and cannot be transferred, suspended, retired or dismissed except in the instances prescribed by law.

2. Judges cannot be held liable for their decisions, other than the exceptions specified by law.

3. Practicing judges cannot discharge any other public or private function, with the exception of unremunerated teaching duties or scientific research of a legal nature, in accordance with law.

4. Practicing judges of judicial courts cannot be appointed by service commissions alien to the activities of courts without the authorization of the High Council of Magistrates.

(New Article 221 is the result of Articles 221 and 222 of the former text, with the respective titles combined. Current paragraphs 3 and 4--corresponding to paragraphs 1 and 2 of former Article 222--have new wording.)

#### Article 222 (Appointment, Placement, Transfer and Promotion of Judges)

1. The appointment, placement, transfer and promotion of judges of judicial courts and the exercise of disciplinary actions are the jurisdiction of the High Council of Magistrates, as prescribed by law.

2. The law shall define the regulations and determine the jurisdiction for the placement, transfer and promotion, as well as for the exercise of disciplinary action, regarding judges of the remaining courts, observing the guarantees prescribed by the constitution.

#### Article 223 (High Council of Magistrates)

1. The High Council of Magistrates shall be chaired by the president of the Supreme Court of Justice and composed of the following members: a) two members appointed by the president of the republic, one of them being a judicial magistrate; b) seven members elected by the Assembly of the Republic; c) seven judges elected by their peers, in accordance with the principle of proportionate representation.

2. Regulations concerning guarantees and incompatibilities of judges shall be applicable to all members of the High Council of Magistrates.

3. The law may stipulate that the High Council of Magistrates shall include justice officials elected by their peers, with participation limited to debate and voting on matters relative to the assessment of professional merits and to the exercise of disciplinary functions regarding justice officials.

(The former law was not specific regarding the composition of the High Council of Magistrates, specifying only that this organ should include members elected by judges from among themselves. Former paragraph 2 has been deleted.)

#### Subsection IV. Public Ministry.

##### Article 224 (Functions and Regulations)

1. The Public Ministry shall be responsible for representing the state, exercising penal action and defending democratic legality and the interests prescribed by law.

2. The Public Ministry shall enjoy its own regulations.

##### Article 225 (Agents of Public Ministry)

1. Agents of the Public Ministry are hierarchically subordinate, responsible magistrates and cannot be transferred, suspended, retired or dismissed except in the instances prescribed by law.

2. The appointment, placement, transfer and promotion of agents of the Public Ministry and the exercise of disciplinary action shall be the jurisdiction of the Prosecutorship-General of the Republic.

##### Article 226 (Prosecutorship-General of the Republic)

1. The Prosecutorship-General of the Republic is the highest organ of the Public Ministry and is headed by the prosecutor-general of the republic.

2. The law shall determine the regulations for the organization and jurisdiction of the Prosecutorship-General of the Republic, which shall include a collegial organ composed of members elected by magistrates of the Public Ministry from among themselves.

(Paragraph 2 of the former text has been reworded, with the formation of the collegial organ included in the Prosecutorship-General of the Republic being clarified.)

#### Section VII. Autonomous Regions.

##### Article 227 (Political-Administrative System of Azores and Madeira)

1. The particular political-administrative system of the archipelagoes of the Azores and Madeira is based on their geographic, economic, social and cultural features and on the historical autonomist aspirations of the island populations.

2. The aim of autonomy of the regions is the democratic participation of citizens, economic-social development and the promotion and protection of regional interests, as well as the reinforcement of national unity and ties of solidarity among all Portuguese.

3. The regional political-administrative autonomy does not affect the integrity of the state's sovereignty and is exercised within the framework of the constitution.

(Paragraph 1 of Article 227 has been reworded, with the word "conditionalisms ..." in the former text having been replaced by "features" and adding the reference to the "cultural" features of the Azores and Madeira.)

#### Article 228 (Statutes)

1. Draft political-administrative statutes of autonomous regions shall be drawn up by the regional assemblies and submitted for debate and approval to the Assembly of the Republic.

2. If the Assembly of the Republic rejects the draft statutes or introduces amendments thereto, it shall return it to the respective regional assembly for assessment and issuance of opinion.

3. After the opinion has been issued, the Assembly of the Republic will proceed with the final debate and approval.

4. The system specified in the foregoing paragraphs is applicable to the amendment of statutes.

(In the former text, paragraph 3 stipulated that following issuance of the respective regional assembly's opinion, "the Assembly of the Republic shall make the final decision." The current paragraph 3 has been reworded.)

#### Article 229 (Powers of Autonomous Regions)

The autonomous regions are collective entities of public authority and have the following powers, to be defined in the respective statutes: a) to legislate, with respect for the constitution and the general laws of the republic, on matters of specific interest to the regions and not reserved for the particular jurisdiction of the organs of sovereignty; b) regional and the general laws proceeding from the organs of sovereignty which do not reserve the respective regulatory power for the latter; c) to exercise legislative initiative, in accordance with the terms of paragraph 1 of Article 170, by submitting draft laws and respective draft amendments to the Assembly of the Republic; d) to exercise their own executive powers; e) to administer and dispose of their assets and to conclude acts and contracts in which they have an interest; f) to exercise their own tax authority, in accordance with law, and to dispose of tax revenues collected therein and other revenues allocated to them, making their expenditures therefrom; g) to establish and abolish local governments, as well as to change the respective area, in accordance with law; h) to exercise supervisory authority over local governments; i) to elevate settlements to the status of villages or cities; j) to superintend



public and nationalized services, institutes and corporations operating exclusively or predominantly in the region, and in other instances in which the regional interest justifies this; l) to approve the regional economic plan, the regional budget and the accounts of the region and to participate in the preparation of the National Plan; m) to define illegal acts violating only social legislation and the respective sanctions, without prejudice to the provisions of clause d) of Article 168; n) to participate in the determination and implementation of fiscal, monetary, financial and foreign exchange policies, in order to assure regional control of the means of payment in circulation and in financing of investments necessary for their economic-social development; o) to participate in the determination of policies pertaining to territorial waters, the exclusive economic zone and contiguous seabeds; p) to participate in the negotiation of treaties and international agreements concerning them directly, as well as to enjoy the benefits deriving therefrom; q) to make decisions on their own initiative, or after consultation with the organs of sovereignty, concerning matters pertaining to them and within their jurisdiction.

(Five paragraphs of the former text were reworded, with the following changes: c) the power to submit draft amendments is added, which was previously not specified; f) the power of autonomous regions to exercise their own tax authority is added; h) the "power" of guiding "local governments," is deleted, with the power "of supervision" retained; j) in this paragraph (corresponding to the previous clause h), the reference to public corporations is added to nationalized companies, with the scope of superintendence also expanded, which previously was restricted in relation to entities which operated "exclusively in the region." 1) In the former text, the autonomous region had the power to change the regional economic plan and to participate in the preparation of the National Plan. The power changed with the new text, to one which, besides the areas previously included, affects the regional budget and the accounts of the region.

Clauses j) and l) in the former text became respectively n) and p) in the new text. Paragraph 2 of this article in the former text has been eliminated, which granted regional assemblies the possibility of requesting the Revolutionary Council to declare unconstitutional procedures which violated the rights of the regions. In the introduction of the article, the word "prerogatives" has been replaced in the new text by "powers.")

#### Article 230 (Limits of Powers)

The autonomous regions are forbidden: a) to restrict the legally recognized rights of workers; b) to establish restrictions on the transit of persons and goods between them and the rest of national territory except, in the case of goods, as required by health regulations; c) to restrict the exercise of any occupation or access to any public office to natives or residents of the region.

#### Article 231 (Cooperation of Organs of Sovereignty of Regional Organs)

1. In cooperation with the regional organs of government, the organs of sovereignty shall assure the economic and social development of autonomous regions, with the aim, in particular, of correcting the inequalities due to insularity.

2. The organs of sovereignty shall always consult with the regional organs of government concerning questions of their jurisdiction pertaining to the autonomous regions.

#### Article 232 (Representation of Sovereignty of Republic)

1. The sovereignty of the republic is specially represented in each of the autonomous regions by a minister of the republic, appointed and dismissed by the president of the republic on the recommendation of the government after consultation with the Council of State.

2. The minister of the republic shall have the right to coordinate the activities of the state's central services pertaining to regional interests, possessing ministerial jurisdiction for this purpose and being seated on the Council of Ministers in meetings dealing with matters of interest to the respective region.

3. The minister of the republic shall superintend the administrative functions exercised by the state in the region and coordinate them with those exercised by the region itself.

4. In the event of his absence or disability, the minister of the republic shall be replaced in the region by the chairman of the regional assembly.

(In the 1976 text, paragraph 1 read: "On the recommendation of the prime minister, after consultation with the Revolutionary Council.")

#### Article 233 (Particular Organs of Government of Regions)

1. The Regional Assembly and the Regional Government are the particular organs of government of each region.

2. The Regional Assembly is elected by direct and secret universal suffrage, in harmony with the principle of proportionate representation.

3. The Regional Government is politically responsible to the Regional Assembly and its president is appointed by the minister of the republic, giving consideration to the election results.

4. The minister of the republic shall appoint and dismiss the other members of the regional government on the recommendation of the respective president.

5. The statute for the heads of the particular organs of government of autonomous regions is defined in the respective political-administrative statutes.

(Paragraph 3 of the former text of the article has been eliminated. Former paragraphs 4 and 5 became paragraphs 3 and 4.)

#### Article 234 (Exclusive Jurisdiction of Regional Assembly)

The exercise of the prerogatives mentioned in clause a), in the second part of clause b), in clause c), in the first part of clause f) and in clauses g), i)

and m) of Article 229 is the exclusive jurisdiction of the regional assembly, as well as approval of the regional budget, the economic plan and the region's accounts.

(Former Article 234 became Article 236.)

#### Article 235 (Signature and Veto of Minister of the Republic)

1. The minister of the republic shall have the right to sign and order publication of regional legislative decrees and regional regulatory decrees.
2. Within 2 weeks after receiving any regional assembly decree sent to him for signing or after publication of the Constitutional Court's decision not ruling on the unconstitutionality of its standard, the minister of the republic shall sign it or exercise his right of veto, requesting a new assessment of the document in an explanatory message.
3. If the regional assembly ratifies the vote by an absolute majority of its current members, the minister of the republic shall be obliged to sign the document within 8 days after receiving it.
4. Within 20 days after receiving any regional government decree sent to him for signing, the minister of the republic shall sign it or refuse to do so, sending written notification of the meaning of such refusal to the regional government, which may change the decree into a bill to be submitted to the regional assembly.
5. The minister of the republic shall also exercise the right of veto in accordance with the terms of Articles 278 and 279.

(Reworded and modified version of former Article 235, whose title was "Regional Decrees.")

#### Article 236 (Dissolution of Regional Organs)

1. The organs of autonomous regions may be dissolved by the president of the republic, for performance of acts contrary to the constitution, after consultation with the Assembly of the Republic and the Council of State.
2. In the event of dissolution of regional organs, the government of the region shall be administered by the minister of the republic.

(This corresponds to Article 234 of the former text, from which paragraphs 2 and 3 have been eliminated. Article 236 of the former text has been deleted, which referred to the Advisory Committee for autonomous regions. In paragraph 1, the word "suspension" has been deleted from the organs of autonomous regions.)

### Section VIII. Local Government.

#### Subsection I. General Principles.

#### Article 237 (Local Governments)

1. The democratic organization of the state includes the existence of local governments.
2. Local governments are territorial collective entities with representative organs for the pursuit of the respective populations' particular interests.

#### Article 238 (Categories of Local Governments and Administrative Division)

1. On the continent, local governments are the communities, municipalities and administrative regions.
2. The autonomous regions of the Azores and Madeira include communities and municipalities.
3. In large urban areas and on islands, the law may establish, in accordance with their specific conditions, other forms of local territorial organization.
4. The administrative division of the territory shall be established by law.

(In the former text, paragraph 3 mentioned only "large urban areas.")

#### Article 239 (Prerogatives and Organization of Local Governments)

The prerogatives and organization of local governments, as well as the jurisdiction of their organs, shall be regulated by law, in harmony with the principle of administrative decentralization.

#### Article 240 (Local Assets and Finances)

1. Local governments shall have their own assets and finances.
2. Management of local finances shall be established by law and shall be aimed at the equitable distribution of public resources by the state and by local governments and the necessary correction of inequalities among local governments of the same rank.
3. Local governments' own revenues shall necessarily include that deriving from the management of its assets and that collected in exchange for its services.

#### Article 241 (Deliberative and Executive Organs)

1. Organization of local governments shall include an elected assembly with deliberative powers and an executive collegial organ responsible to it.
2. The assembly shall be elected by the direct and secret universal suffrage of resident citizens in accordance with the system of proportionate representation.
3. The organs of local governments may conduct direct polls of registered voters in the respective area, by secret vote, on matters within its exclusive

jurisdiction in the instances, in accordance with the terms and with the effectiveness to be established by law.

#### Article 242 (Regulatory Power)

Local governments shall have their own regulatory powers within the limitations of the constitution, the laws and regulations issued by local governments of higher rank or authorities with supervisory power.

(The reference to "assemblies of local governments" has been deleted.)

#### Article 243 (Administrative Supervision)

1. The administrative supervision of local governments consists of verification of compliance with the law by local government organs and shall be exercised in the instances and according to the terms prescribed by law.

2. Supervisory measures restricting local autonomy shall be preceded by the issuance of opinion of a local government organ, in accordance with the terms to be defined by law.

3. The dissolution of local government organs resulting from direct election may take place only by virtue of serious illegal actions or omissions.

(Paragraph 3 of Article 243 of the former text has been deleted. Paragraph 2 of the present text eliminates the special character of the supervisory measures to which the former text referred. Former paragraph 1 granted jurisdiction for supervision "on the continent, to the government, and in the Azores and Madeira, to the respective regional organs.")

#### Article 244 (Local Government Personnel)

1. Local governments shall have their own staffs of personnel, in accordance with law.

2. The system of state officials and agents shall be applicable to the officials and agents of the local administration.

3. The law shall define the forms of the state's technical and human resources contribution to local governments, without prejudice to their autonomy.

(Article 244 of the former text, which referred to the "general staff of officials," has been deleted.)

#### Subsection II. Communities.

#### Article 245 (Community Organs)

The representative organs of the community are the community assembly and council.

#### Article 246 (Community Assembly)

1. The community assembly shall be elected by the voters residing in the area of the community.
2. In addition to political parties, other voter groups, in accordance with the terms established by law, may submit candidacies for election to community organs.
3. In communities with small populations, the law may specify that the full assembly of registered voters shall replace the community assembly.

#### Article 247 (Community Council)

1. The community council is the executive organ of the community and is elected by secret vote by the assembly from among its members.
2. The chairman of the council is the citizen heading the ticket receiving the most votes in the assembly election or, if there is no assembly, the citizen elected to that office by the full assembly.

#### Article 248 (Delegation of Duties)

The community assembly may delegate to territorial basic public organizations administrative duties which do not involve the exercise of powers of authority.

#### Subsection III. Municipalities.

#### Article 249 (Modification of Municipalities)

The establishment or abolishment of municipalities, as well as any change in their respective areas, shall be carried out by law after first consulting the organs of the local governments in question.

(The title of Article 249 of the former text, "Municipal Organs," which became Article 250, has been changed.)

#### Article 250 (Municipal Organs)

The representative organs of the municipality are the municipal assembly, the municipal chamber and, optionally, the municipal council.

(This was former Article 249.)

#### Article 251 (Municipal Assembly)

The municipal assembly is comprised of the chairman of community councils and of members, whose number shall not be less than the former, elected by the electoral college of the municipality.

#### Article 252 (Municipal Chamber)

The municipal chamber is the collegial executive organ of the municipality, elected by the voters residing in its area; the chairman shall be the candidate heading the ticket receiving the most votes.

#### Article 253 (Municipal Council)

1. The municipal assembly may establish, as an advisory organ, a municipal council.

2. The law shall define the regulations concerning the composition of the municipal council, in order to guarantee appropriate representation of economic, social, cultural and professional organizations in the area of the municipality.

(This is an expansion of former Article 253, with new wording adapted to the optional character of the municipal council.)

#### Article 254 (Association and Federation)

Municipalities may establish associations and federations for the administration of common interests.

(Paragraph 2 of the former text, which stated that "the law may establish the obligatory nature of the federation," has been deleted.)

#### Article 255 (Sharing of Direct Tax Revenues)

Municipalities shall share, by their own right and in accordance with the terms defined by law, the revenues deriving from direct taxes.

#### Article 256 (Establishment of Regions)

1. Regions shall be established simultaneously, after consultation with municipal assemblies, the law being authorized to establish differences as to the system applicable to each.

2. The areas of administrative regions and of Plan regions shall correspond.

3. Actual establishment of each region shall depend on the favorable vote of a majority of the municipal assemblies which represent most of the population in the regional area.

(In paragraph 1, the word "established" has been changed. Rewording of paragraph 2.)

#### Article 257 (Prerogatives)

In addition to participation in the formation and implementation of the regional plan, the regions shall specifically be assigned duties of coordination and support for the activities of municipalities without limitation of their respective powers, as well as the direction of public services.

#### Article 258 (Regional Organs)

The representative organs of the region are the regional assembly, the regional commission and the regional council.

#### Article 259 (Regional Assembly)

The regional assembly shall include, in addition to the representatives elected directly by the citizens, members elected by the municipal assemblies, in a number less than the former.

#### Article 260 (Regional Commission)

The regional commission is the executive collegial organ of the region and shall be elected, by secret vote, by the regional assembly from among its members.

#### Article 261 (Regional Council)

The regional council is the advisory organ of the region and its composition shall be defined by law, in order to guarantee the appropriate representation of cultural, social, economic and professional organizations in the respective area.

#### Article 262 (Government Representative)

The regional commission shall have a government representative appointed by the Council of Ministers and his powers shall be exercised together with those of existing local governments in the respective area.

(Former Article 262 became Article 295)

#### Subsection V. Territorial Basic Public Organizations.

#### Article 263 (Establishment and Area)

1. In order to increase the participation of the population in local administrative life, territorial basic public organizations may be established corresponding to areas smaller than that of the community.

2. The community assembly, on its own initiative or at the request of committees of residents or a significant number of residents, shall delimit the territorial areas of the organizations mentioned in the preceding paragraph, settling possible disputes deriving therefrom.

(This was Article 264 of the former text.)

#### Article 264 (Structure)

1. The structure of territorial basic public organizations shall be that established by law and includes the assembly of residents and the committee of residents.



2. The assembly of residents is composed of the residents listed in the community census.

3. The assembly shall meet when publicly convoked, with due prior notice, by at least 20 of its members or by the committee of residents.

4. The committee of residents is elected, by secret vote, by the assembly of residents and shall be freely dissolved by it.

(This was Article 265 of the former text. In paragraph 2, the expression "and by those not registered for more than 16 years who can prove by documentation their residential status" has been deleted.)

#### Article 265 (Functions)

1. Territorial basic public organizations have the right: a) to petition local governments concerning administrative matters in the interest of residents; b) to participation, without voting, through their representatives, in the community assembly.

2. Territorial basic public organizations have the right to carry out the tasks assigned to them by law or delegated to them by community organs.

(This corresponds to Article 266 of the former text.)

#### Section IX. Public Administration.

##### Article 266 (Basic Principles)

1. The purpose of the Public Administration is to pursue the public interest with respect for the legally protected rights and interests of citizens.

2. Administrative organs and agents are subordinate to the constitution and by law and shall act fairly and impartially in the exercise of their functions. (This corresponds to Article 267 of the former text.)

##### Article 267 (Structure of Administration)

1. The Public Administration shall be structured so as to avoid bureaucratization, to provide services to the public and to assure the participation of the respective parties in its actual management, specifically through public associations, basic public organizations or other forms of democratic representation.

2. For the purpose of the preceding paragraph's provisions, the law shall establish appropriate forms of decentralization and administrative deconcentration, without prejudice to necessary efficacy and unity of action and the directive and supervisory powers of the government.

3. Public associations may be established only for satisfaction of specific needs, may not exercise the functions proper to trade union organizations and shall have an internal organization based on respect for the rights of its members and the democratic formation of its organs.

4. The processing of administrative activity will be the subject of special law, which shall assure rationalization of the means to be used for services and the participation of citizens in the making of decisions or debates concerning them.

(This was Article 268 of the former text, whose paragraph 3 became paragraph 4.)

#### Article 268 (Rights and Guarantees of Administrativees)

1. Citizens have the right to be informed by the administration, whenever they so require, concerning development of the processes in which they are directly involved, as well as the right to be informed of the final resolutions passed in that regard.

2. Externally effective administrative acts shall be subject to notification of the parties involved when they do not have to be officially published and shall lack a clear foundation when they affect legally protected rights or interests of citizens.

3. The respective parties are guaranteed recourse to the courts, on the basis of illegality, against any administrative, definitive and executory acts, regardless of their form, as well as to obtain recognition of a legally protected right or interest.

(This corresponds to Article 269 of the former text, whose paragraph 2 became paragraph 3 with an addition.)

#### Article 269 (System of Public Function)

1. In the exercise of their duties, Public Administration employees and other agents of the state and other public entities shall exclusively serve the public interest as defined, in accordance with law, by the respective organs of the administration.

2. Public administration employees and other agents of the state and other public entities may not be prejudiced or advantaged by virtue of the exercise of any political rights specified in the constitution, in particular for party choice.

3. In disciplinary proceedings, the "argido" to their hearing and defense are guaranteed.

4. The concentration of public jobs or offices is not permitted except in the instances expressly permitted by law.

5. The law shall determine the incompatibilities for the exercise of public jobs or office and other activities.

(This corresponds to former Article 270, with the expression "officials and agents of the state and other public entities" having been replaced in paragraphs 1 and 2.)

#### Article 270 (Restrictions to the Exercise of Rights)

The law may establish restrictions to the exercise of the rights of expression, assembly, demonstration, association and collective petition and to the passive electoral capacity of the military and militarized agents of permanent staffs in actual service, in strict proportion to the requirements of their own functions.

(Former Article 270 became Article 269.)

#### Article 271 (Responsibilities of Officials and Agents)

1. The officials and agents of the state and other public entities are civilly, criminally and disciplinarily responsible for their actions and omissions resulting in the violation of legally protected rights and interests of citizens, regardless of the action or procedure, in any phase, of hierarchical authorization.
2. An official or agent acting on order or instructions from a legitimate hierarchical superior and while performing a service shall not be held responsible, if he has requested from them in advance his transfer or confirmation in writing.
3. The duty of obedience shall cease whenever compliance with orders or instructions implies the commission of any crime.
4. The law shall regulate the terms in which the state and other public entities have the right of redress against office holders of its functionary organs and agents.

#### Article 272 (Police)

1. The police shall have the duty of defending democratic legality and guaranteeing internal security and the rights of citizens.
2. Police measures are those prescribed by law and shall not be used other than when strictly necessary.
3. Crime prevention, including crimes against the security of the state, may be carried out only with respect for the general regulations concerning the police and with respect for the rights, liberties and guarantees of citizens.
4. The law shall establish the system of security forces, with the organization of each of them being unique to all national territory.

#### Section IX. National Defense.

#### Article 273 (National Defense)

1. It is the obligation of the state to assure national defense.
2. The purpose of national defense is to guarantee, with respect for democratic institutions, national independence, territorial integrity and the liberty and security of the population against any foreign aggression or threat.

(Section IX was Section X of the former text, the previous title "Armed Forces" having been replaced. Article 273 of the former text has been eliminated.)

Article 274 (High Council of National Defense)

1. The High Council of National Defense is chaired by the president of the republic and shall have the composition specified by law.
2. The High Council of National Defense is the specific advisory organ for matters relating to national defense and to the organization, operation and discipline of the armed forces, and shall have the administrative jurisdiction assigned to it by law.

(Article 274 of the former text has been deleted.)

Article 275 (Armed Forces)

1. The armed forces are responsible for the military defense of the republic.
2. The armed forces are composed exclusively of Portuguese citizens and their organization shall be based on compulsory military service and shall be unique to all national territory.
3. The armed forces are subject to the respective organs of sovereignty, in accordance with the constitution and law.
4. The armed forces are in the service of the Portuguese people, are strictly apolitical and their members may not use their weapons, ranks or functions for any political activity.
5. The armed forces may cooperate, in accordance with the law, in performing tasks related to the satisfaction of basic needs and improvement of the population's quality of life.
6. The laws regulating the systems of martial law and states of emergency shall establish the conditions for use of the armed forces when required by those situations.

[Article 275 of the former text has been eliminated, its spirit having been incorporated into paragraph 4.)

Article 276 (Defense of Country, Military Service and Civic Service)

1. Defense of country is a basic duty of all Portuguese.
2. Military service is compulsory, in accordance with the terms and for the period prescribed by law.
3. Those considered unfit for armed military service shall render nonarmed military service or civic service appropriate to their situations.

4. Conscientious objectors shall render civic service of duration and difficulty equivalent to that of armed military service.

5. Civic service may be established as a substitute or supplement to military service and made compulsory by law for citizens not subject to military duty.

6. No citizen may retain or obtain employment with the state or any other public entity if he fails to fulfill his military obligation or to render civic service when obligatory.

7. No citizen may be prejudiced in his placement, social benefits or permanent employment by virtue of fulfillment of military service or compulsory civic service.

(Paragraphs 4, 5 and 6 of the former text became paragraphs 5, 6 and 7.)

#### Part IV. Guarantee and Revision of Constitution.

##### Section I. Guarantee of Constitution.

##### Subsection I. Verification of Constitutionality.

##### Article 277 (Unconstitutionality by Action)

1. Procedures violating the provisions of the constitution or the principles specified therein are unconstitutional.

2. The organic or formal unconstitutionality of regularly ratified international treaties does not prevent implementation of their procedures in the Portuguese legal system, as long as such procedures are implemented in the legal system elsewhere, except if such unconstitutionality results in a violation of a basic provision.

(This was Article 280 of the former text, whose paragraph 2 has been eliminated, with paragraph 3 becoming paragraph 2. Paragraph 2 of the former text stipulated that "unconstitutional procedures may not be implemented by the courts, the Revolutionary Council being obliged to declare their unconstitutionality with general compulsory force, in accordance with the terms of the following articles.")

##### Article 278 (Preventive Verification of Constitutionality)

1. The president of the republic may require the Constitutional Court to issue a preventive assessment of the constitutionality of any regular procedure of an international treaty which has been submitted to him for ratification, of a decree which has been sent for promulgation, as well as a law, decree-law or international agreement whose decree of approval has been submitted to him for signing.

2. The ministers of the republic may also require the Constitutional Court to issue a preventive assessment of the constitutionality of any regular procedure of a regional legislative decree or regulatory decree of a general law of the republic, sent to them for signing.

3. Preventive assessment of constitutionality shall be required within 5 days from the date of receiving the document.

4. The Constitutional Court shall issue its opinion within 20 days; in the case of paragraph 1, this period may be shortened by the president of the republic for emergency purposes.

(This corresponds to Article 277 of the former text, with substantial changes.

The former text stipulated:

"1. All decrees submitted to the president of the republic for promulgation as laws or decree-laws or which involve the approval of international treaties or agreements shall be simultaneously sent to the Revolutionary Council and may not be promulgated until 5 days after being received by the Council.

2. In the event the president of the republic considers promulgation urgent, he shall advise the Revolutionary Council of the need for immediate promulgation.

3. If the Revolutionary Council has doubts about the constitutionality of a decree and decides to evaluate it, it will so advise, within the period listed in paragraph 1, the president of the republic so that he does not proceed with its promulgation.

4. If assessment of the constitutionality of a document is decided by the Council or required by the president of the republic, the Revolutionary Council shall issue its ruling within 20 days, although this period may be shortened by the president of the republic in the event of an emergency.")

#### Article 279 (Effects of Decision)

1. If the Constitutional Court rules on the unconstitutionality of a regular procedure of any decree or international agreement, the document shall be vetoed by the president of the republic or by the minister of the republic, depending on the case, and returned to the organ which approved it.

2. In the case specified in paragraph 1, the decree cannot be promulgated or signed without the organ which approved it deleting the procedure which has been judged unconstitutional or, when it is a case of this, the confirmation of a two-thirds majority of the Assembly members present.

3. If the document is reformulated, the president of the republic or the minister of the republic, depending on the case, may require preventive assessment of the constitutionality of any of its procedures.

4. If the Constitutional Court rules on the unconstitutionality of a regular procedure of a treaty, the latter may be ratified only if the Assembly of the Republic approves it by a two-thirds majority of the Assembly members present.

(This corresponds to Article 278 of the former text. Article 279 became Article 283. Former Article 278 was worded as follows:

"1. If the Revolutionary Council rules on the unconstitutionality of any document, the president of the republic shall exercise his right of veto, neither promulgating nor signing it.

2. In the case of a decree of the Assembly of the Republic, it cannot be promulgated without the Assembly approving it again by a two-thirds majority of the Assembly members present.

3. In the case of a government decree, it cannot be signed or promulgated.")

Article 280 (Actual Verification of Constitutionality and Legality)

1. The following court decisions may be appealed to the Constitutional Court: a) those refusing implementation of any procedure on the basis of its own constitutionality; b) those implementing a procedure whose unconstitutionality has been raised during proceedings.

2. When the procedure whose implementation has been refused is part of an international agreement, legislative act or regulatory decree, the appeals specified in clause a) of paragraph 1 is binding for the Public Ministry.

3. The following court decisions may also be appealed to the Constitutional Court: a) those refusing implementation of a regular procedure of a regional document on the basis of its illegality by virtue of violation of the autonomous region's statutes or the general law of the republic; b) those refusing implementation of a regular procedure of a document issued by an organ of sovereignty on the basis of its illegality by virtue of its violation of an autonomous region's statutes; c) those implementing a procedure whose illegality has been raised during proceedings, with any of the bases mentioned in clauses a) and b).

4. The appeal specified in clause b) of paragraph 1 and in clause c) of paragraph 3 may only be filed by the party that has raised the question of unconstitutionality or illegality; the law shall regulate the procedure for filing such appeals.

5. Court decisions implementing a procedure previously judged unconstitutional or illegal by the Constitutional Court itself shall also necessarily be appealed to the Constitutional Court by the Public Ministry.

6. Appeals to the Constitutional Court are restricted to the question of unconstitutionality or illegality, depending on the case.

(Article 282 of the former text has been replaced, whose title was "Judicial Verification of Unconstitutionality" and was worded as follows:

1. Whenever the courts refuse to implement a regular procedure of a law, decree-law, regulatory decree, regional decree or comparable document on the basis of unconstitutionality and after the respective ordinary appeals have been exhausted, an automatic compulsory appeal shall be made by the Public Ministry, restricted to the question of unconstitutionality, for final judgment in the specific case by the Constitutional Commission.

2. There shall also be an automatic compulsory appeal to the Constitutional Commission by the Public Ministry of decisions that implement a procedure previously judged unconstitutional by that Commission.

3. In the case of a regular procedure of a document not specified in paragraph 1, the courts shall make the final judgment regarding unconstitutionality.)

#### Article 281 (Abstract Verification of Constitutionality and Legality)

1. The Constitutional Court general compulsory: a) the unconstitutionality of any procedures, at the request of the president of the republic, evaluates and declares, with the force of the chairman of the Assembly of the Republic, the prime minister, the minister of justice, the prosecutor general of the republic, of one-tenth of the members of the Assembly of the Republic or, on the basis of the violation of the rights of autonomous regions, the respective regional assemblies or the presidents of regional governments; b) the illegality of any regular procedures of a regional document, on the basis of violation of the statutes of the region or the general law of the republic, at the request of any of the entities listed in clause a) or of the minister of the republic for the respective autonomous region; c) the illegality of any regular procedure of a document issued by the organs of sovereignty, on the basis of violation of a region's rights established in its statutes, at the request of any of the entities listed in clause a), as well as of the chairman of the regional assembly, the president of the regional government or one-tenth of the members of the regional assembly of the respective autonomous region.

2. The Constitutional Court shall also evaluate and declare, with general binding force, the unconstitutionality or illegality of any procedure, as long as it has been judged unconstitutional or illegal by it in three specific cases.

(The text of Article 281 has been replaced, whose title was "Declaration of Unconstitutionality" and which was worded as follows:

1. The Revolutionary Council shall evaluate and declare, with general binding force, the unconstitutionality of any procedures, upon request by the president of the republic, the chairman of the Assembly of the Republic, the prime minister, the minister of justice, the prosecutor general of the republic or, in the instances listed in paragraph 2 of Article 229, of the assemblies of autonomous regions.

2. The Revolutionary Council may declare, with general binding force, the unconstitutionality of a procedure if the Constitutional Commission has judged it unconstitutional in three specific cases or in only one case if it is a matter of organic or formal unconstitutionality, without prejudice to the cases judged.)

#### Article 282 (Effects of Declaration of Unconstitutionality or Illegality)

1. The declaration of unconstitutionality or illegality with general binding force is effective with implementation of the procedure declared unconstitutional or illegal and determines the "repristinicao" of the procedures which it may possibly have revoked.



2. However, in the case of unconstitutionality or illegality for violation of a subsequent legal or constitutional standard, the declaration shall take effect only with implementation of the latter.

3. Exceptions shall be made to the cases judged, except when the Constitutional Court decides otherwise, when the procedure respects the penal, disciplinary or illegality provisions of strictly social legislation and whose content is less favorable to the "arguido."

4. The Constitutional Court may establish the effects of unconstitutionality or illegality with a more restrictive scope than that specified in paragraphs 1 and 2 when warranted or required by legal security, reasons of fairness or public interest of exceptional importance.

#### Article 283 (Unconstitutionality by Omission)

1. At the request of the president of the republic, the minister of justice or, on the basis of the violation of rights of autonomous regions, of the chairman of the regional assemblies, the Constitutional Court shall evaluate and verify noncompliance with the constitution by omission of the legislative measures necessary for rendering constitutional procedures feasible.

2. When the Constitutional Court verifies the existence of unconstitutionality by omission, it shall so notify the respective legislative organ.

(This corresponds to Article 279 of the former text. Former Article 283, referring to the Constitutional Commission, has been deleted.)

The text of Article 279 formerly read as follows: "When the constitution is not respected by omission of the legislative measures necessary to render constitutional standards feasible, the Revolutionary Council may recommend to the respective legislative organs that they issue them within a reasonable period of time.")

#### Subsection II. Constitutional Court.

#### Article 284 (Composition)

1. The Constitutional Court is composed of 13 judges, with 10 appointed by the Assembly of the Republic and 3 chosen jointly by those 13.

2. Three of the judges appointed by the Assembly of the Republic and the three jointly chosen judges shall necessarily be selected from among judges of the remaining courts and the others from among jurists.

3. The judges of the Constitutional Court are appointed for 6 years.

4. The president of the Constitutional Court is elected by the respective judges.

(The title of Subsection II of the former text, which was "Constitutional Commission," has been replaced. Former Article 284 has been eliminated.)

According to the eliminated article, the abolished Constitutional Commission could: a) necessarily issue an opinion on the constitutionality of documents which must be evaluated by the Revolutionary Council, in accordance with the terms of Article 277 and paragraph 1 of Article 281 (of the former text); b) necessarily issue an opinion on the existence of violations of constitutional standards by omission, in accordance with the terms and for the purposes of Article 279 (of the former text); c) judge the questions of unconstitutionality submitted to it, in accordance with the terms of Article 282 (of the former text).")

#### Article 285 (Sections)

The law may provide for the Constitutional Court's operation in nonspecialized sections for the purpose of actual verification of constitutionality and legality.

(Article 285 of the former text has been deleted, which read:

"1. The organization, operation and proceedings of the Constitutional Commission are regulated by the Revolutionary Council.

2. Procedural standards may be altered by the Assembly of the Republic.")

#### Section II. Constitutional Revision.

#### Article 286 (Authority and Time of Revision)

1. The Assembly of the Republic may revise the constitution after 5 years from the publication date of any revision law.

2. The Assembly of the Republic may, however, assume constitutional revision powers at any time by a four-fifths majority of the current Assembly members.

(Article 286 of the former text has been deleted. Former Article 287 became Article 286, with the former title "Subsequent Revisions" being replaced. Paragraph 3 of former Article 287 became paragraph 1 of the new Article 288.)

#### Article 287 (Revision Initiative)

1. Assembly members shall have the right to a revision initiative.

2. Once a draft constitutional revision is submitted, any others will have to be submitted within 30 days.

(This was Article 288 of the former text, whose paragraph 3 became paragraph 2 of the new Article 288.)

#### Article 288 (Approval and Promulgation)

1. Constitutional changes shall be approved by a two-thirds majority of the current Assembly members.

2. Approved constitutional changes shall be grouped together in a single revision law.

3. The president of the republic cannot refuse to promulgate the revision law.

(Paragraph 1 of this new article was paragraph 3 of Article 287 of the former text. Paragraph 2 was paragraph 3 of former Article 288, whose paragraphs 1 and 2 make up Article 287 of the new text.)

#### Article 289 (New Text of Constitution)

1. Constitutional changes shall be inserted in the proper place by means of the necessary substitutions, deletions and additions.

2. The new text of the constitution shall be published together with the revision law.

#### Article 290 (Material Limits of Revision)

Constitutional revision laws must respect: a) national independence and unity of the state; b) the republican form of government; c) separation of church and state; d) the rights, liberties and guarantees of citizens; e) the rights of workers, workers commissions and trade union associations; f) the principle of collective appropriation of the principal means of production and land, as well as of natural resources, and the elimination of monopolies and large estates; g) democratic planning of the economy; h) universal, direct, secret and periodic suffrage for appointment of the elected members of the organs of sovereignty, of autonomous regions and of local governments, as well as the system of proportionate representation; i) pluralism of expression and political organization, including political parties, and the right of democratic opposition; j) the participation of basic public organizations in the exercise of local government; l) separation and interdependence of the organs of sovereignty; m) verification of the constitutionality of legal procedures by action or by omission; n) independence of the courts; o) autonomy of local government; p) political-administrative autonomy of the archipelagoes of the Azores and Madeira.

#### Article 291 (Circumstantial Limits of Revision)

No constitutional revision act may be implemented during martial law or a state of emergency.

#### Final and Temporary Provisions

#### Article 292 (Previous Constitutional Right)

Constitutional laws subsequent to 25 April 1974 and not exempted in this subsection are considered ordinary laws, without prejudice to the provisions of Article 293.

(Paragraph 1 of Article 292 of the former text has been eliminated, with former paragraph 2 becoming the sole paragraph, with elimination of the reference to former Article 294.)

#### Article 293 (Previous Ordinary Right)

Rights prior to the effective date of the constitution shall continue as long as they are not contrary to the constitution or to the principles listed therein.

(Paragraphs 2 and 3 of former Article 293 have been deleted.)

#### Article 294 (Statutes of Autonomous Regions)

The provisional statutes of autonomous regions shall be effective until promulgation of the final statutes, to be prepared in accordance with the terms of the constitution.

(The text of new Article 294 corresponds to paragraph 3 of former Article 302, with the deletion of paragraphs 1 and 2. Former Articles 294, 295, 296, 297, 298, 299, 300, 301, 303, 304, and 305 have been deleted.)

#### Article 295 (Districts)

1. During the time that regions have not been established, district divisions will be maintained.

2. In each district there shall be, in accordance with the terms to be defined by law, a deliberative assembly composed of representatives of municipalities and chaired by the civil governor.

3. The civil governor shall have the right, assisted by a council, to represent the government and to exercise the powers of supervision in the area of the district.

(This article is former Article 263.)

#### Article 296 (Statute of Macao)

1. The statute of the territory of Macao, consisting of Law No 1/76 of 17 February, shall continue in effect, with the changes introduced therein by Law No 53/79 of 14 September.

2. On the recommendation of the Legislative Assembly of Macao and after issuance of the opinion of the Council of State, the Assembly of the Republic may approve changes in the statute or its substitution.

3. In the event that the recommendation is approved with changes, the president of the republic shall not promulgate the decree of the Assembly of the Republic without the consent of the Legislative Assembly of Macao.

(Former Article 306 became the new Article 296.)

Article 297 (Independence of East Timor)

1. Portugal shall continue to be bound by its incumbent responsibilities, in harmony with international law, for promoting and guaranteeing the rights and independence of East Timor.

2. The president of the republic and the government shall have the right to perform all actions necessary for implementation of the aims listed in the preceding paragraph.

(This corresponds to Article 307, in whose paragraph 2 the reference to the Revolutionary Council has been deleted.)

Article 298 (Incrimination and Judgment of Agents and Officials of PIDE/DGS [International and State Defense Police/Security Directorate General])

1. Law No 8/75 of 25 July shall continue in effect, with the changes introduced by Law No 16/75 of 23 December and by Law No 18/75 of 26 December.

2. The law may require the criminal typifications consisting of paragraph 2 of Article 2, Article 3, clause b) of Article 4 and Article 5 of the document mentioned in the preceding paragraph.

3. The law may specially regulate the unusual attenuation specified in Article 7 of the same document.

(This corresponds to Article 309. Article 308 of the former text has been deleted.)

Article 299 (Special Regulations Concerning Parties)

1. The provisions of paragraph 3 of Article 51 shall apply to already established parties, in accordance with the terms to be established by law.

2. Parties which, by their titles or by their platforms, have a regional character or scope may not be established.

(This corresponds to former Article 311. Former Article 310, referring to the improvement of public function, has been deleted.)

Article 300 (Initial Effective Date of Constitution)

1. The date of approval of the Constitution of the Portuguese Republic by the Constituent Assembly is April 1976.

2. The Constitution of the Portuguese Republic shall take effect on 25 April 1976.

(This corresponds to former Article 312, whose paragraph 1 has been eliminated. Paragraph 2 became paragraph 1 of the new text.)

## Final Provisions of Revision Law

(In addition to the 237 articles referring to the introduction of new provisions and/or changes in the articles of the constitution, the Revision Law passed by the Assembly of the Republic also includes a section of final and temporary provisions, beginning with no 238; the order listed by the Revision Law is retained here.)

### Mass Media Council (Article 238)

1. The Assembly of the Republic shall approve legislation pertaining to the Mass Media Council as provided in Article 39 of the constitution up to 90 days following the effective date of the present revision law and shall select its members up to the 10th day following publication of such legislation.
2. Until the Mass Media Council begins operating, its duties will be discharged by the current information councilors.

### State Budget (Article 239)

The new system for preparation and approval of the state budget shall not apply to the budget for 1983. for which current respective constitutional and legal standards shall remain in effect.

### High Council of Magistrates (Article 240)

1. Up to 150 days following the effective dates of the present revision law, the Assembly of the Republic shall proceed with revision of legislation concerning the High Council of Magistrates, the statutes of judicial court judges and the statutes of judges of the remaining courts, with current respective constitutional and legal standards remaining in effect in the meantime.
2. The respective members of the High Council of Magistrates shall be appointed within the 30 days subsequent to publication of the legislation on the High Council.

### Judicial Appeal (Article 241)

Constitutional procedure pertaining to the guarantee of judicial appeal for obtaining recognition of a legally protected right or interest shall take effect on 1 October 1983.

### Files of PIDE/DGS (Article 242)

1. As of the effective date of the present Revision Law, the files of the abolished PIDE/DGS shall be placed in the joint custody of the chairman and deputy chairmen of the Assembly of the Republic; the fate of these files shall be determined by law, to be approved by the Assembly of the Republic by a two-thirds majority of the current Assembly members.
2. As of the same date, the abolished services of the former PIDE/DGS shall be subordinate to the Assembly of the Republic and their fate shall be determined by law, to be approved in accordance with the terms of the preceding paragraph.

#### Improvement of Public Function (Article 243)

The elimination of Article 310 of the constitution shall not prejudice the validity and effectiveness of acts performed under the legislation mentioned therein.

#### Constitutional Court, National Defense and Armed Forces (Article 244)

1. As of the effective date of the present Revision Law, the Assembly of the Republic shall approve legislation pertaining to the organization, operation and procedure of the Constitutional Court, to the organization of national defense and to the general bases for the organization and operation of the armed forces.
2. The documents listed in the preceding paragraph shall be promulgated or vetoed by the president of the republic within 15 days from the date of their receipt, with nonpromulgation within the aforementioned period being equivalent to a veto.
3. In the event of a veto by the president of the republic, the same documents shall be reassessed by the Assembly of the Republic within 5 days and the president of the republic may not refuse to promulgate them, which shall be carried out within 5 days subsequent to their receipt if the Assembly of the Republic confirms its vote by a two-thirds majority of the Assembly members present and as long as there is more than an absolute majority of the current Assembly members.

#### Council of State (Article 245)

The president of the republic and the Assembly of the Republic shall appoint the members of the Council of State and they shall respectively observe clauses g) and h) of new Article 145 of the constitution until the effective date of the present Revision Law; all council members shall take up their positions on that same date.

#### Constitutional Court (Article 246)

1. Up to the fifth day subsequent to the publication date of the law pertaining to the organization, operation and procedure of the Constitutional Court, the Assembly of the Republic shall select the respective judges whom it shall be entitled to appoint; within 10 days immediately thereafter, the judges shall meet on their own initiative to jointly select the remaining judges of the same court.
2. The Constitutional Court shall begin operating on the date on which the respective judges take office, which shall take place within 5 days subsequent to the publication date of the act of joint selection, as specified in the preceding paragraph.
3. Until the Constitutional Court has begun operating, the Constitutional Commission shall continue to function and its current composition, for exercising the jurisdiction stipulated in current Article 282 of the constitution, shall continue in effect in the meantime.

4. Until the Constitutional Court begins operating, the president of the republic may exercise his right of veto for unconstitutionality relative to all documents of the Assembly of the Republic and the government, following only the issuance of the opinion of the Constitutional Commission, but he cannot refuse to promulgate the decrees of the Assembly of the Republic if the vote of the latter is confirmed by a two-thirds majority of the Assembly members present, as long as there is more than an absolute majority of the current Assembly members.

5. Until the Constitutional Court begins operating, the jurisdiction specified in clause a) of paragraph 2 of Article 213 of the constitution shall temporarily be exercised by the Council of State.

#### Armed Forces (Article 247)

Until the effective date of laws pertaining to the organization of national defense and the general bases for the organization and operation of the armed forces, the current legislative jurisdiction of the Revolutionary Council is transferred to the Assembly of the Republic and the other current legal and constitutional authority of the Revolutionary Council concerning military affairs cannot meanwhile be exercised by any other organ.

#### Effective Date of Revision Law (Article 248)

The present Revision Law shall take effect on the 30th date subsequent to its date of publication in the Official Gazette of the Republic, without prejudice to its immediate implementation for purposes of the provisions of Articles 244 and 245.

#### Publication (Article 249)

The new text of the Constitution of the Portuguese Republic of 2 April 1976 shall be published together with the present Revision Law.

#### Revolutionary Council: The "Legacy"

The abolishment of the Revolutionary Council naturally stands out as one of the most significant changes brought about by the constitutional revision. Listed below are the constitutional articles that are eliminated and, in brief notes, we have tried to give a general idea of the way in which the prerogatives, authority and powers of that political-military organ, which originated in the revolutionary aftermath of 25 April, were distributed. It is the record of a quasi-"legacy."

#### Section III. Revolutionary Council.

##### Subsection I. Function and Structure.

#### Article 142 (Definition)

The Revolutionary Council shall function as the council of the president of the republic (1) and as guarantor of the regular operation of democratic institutions (2), as guarantor of compliance with the constitution (3) and



loyalty to the spirit of the Portuguese Revolution of 25 April 1974 (4), and as a political and legislative organ concerning military affairs (5).

(1) Council of State

(2) President of the Republic

(3) Constitutional Court

(4) Eliminated

(5) President of the Republic, Assembly of the Republic, Government and High Council of National Defense.

#### Article 143 (1) (Composition)

1. The Revolutionary Council shall be composed of: a) the president of the republic; b) the chief of the general staff of the armed forces and the deputy chief of the general staff of the armed forces, when one exists; c) the chiefs of staff of the three branches of the armed forces; d) the prime minister, when he is a military officer; e) 14 officials, with 8 from the army, 3 from the air force and 3 from the navy, appointed by the respective branches of the armed forces.

2. In the event of the death, resignation or permanent disability, verified by the Council itself, of any of the members mentioned in clause e) of the preceding paragraph, the vacancy shall be filled by appointment by the respective branch of the armed forces.

(1) Eliminated. The law may possibly determine that some of these members shall sit on the High Council of National Defense. For the time being, only the president of the republic is, by constitutional right, a full-fledged member of that council, which he chairs.

#### Article 144 (1) (Organization and Operation)

1. The Revolutionary Council shall have the right to regulate its organization and its operation and to formulate its internal regulations.

2. The Revolutionary Council shall meet on a regular basis.

3. The jurisdiction of the Revolutionary Council may not be subject to total delegation, nor is any of its members irrevocable.

(1) Eliminated.

#### Subsection II. Jurisdiction.

Article 145 (Jurisdiction as Council of the President of the Republic and as Guarantor of the Regular Operation of Democratic Institutions)

As the council of the president of the republic and as guarantor of the regular operation of democratic institutions, the Revolutionary Council shall have the right: a) to advise the president of the republic concerning the exercise of his duties; (1) b) to authorize the president of the republic to declare war and to make peace; (2) c) to authorize the president of the republic to declare martial law or a state of emergency, in part or throughout national territory; (3) d) to authorize the president of the republic to leave national territory; (4) e) to declare the permanent physical incapacity of the president of the republic and to verify temporary impediments to the exercise of his duties. (5)

- (1) Council of State
- (2) Government and Assembly of the Republic
- (3) Assembly of the Republic
- (4) Assembly of the Republic
- (5) Constitutional Court.

Article 146 (Jurisdiction as Guarantor of Compliance with Constitution)

As guarantor of compliance with the constitution, the Revolutionary Council shall have the right: a) to issue a ruling, on its own initiative or at the request of the president of the republic, on the constitutionality of any document before it is promulgated or signed; (1) b) to assure issuance of the necessary measures for compliance with constitutional procedures, being able to make recommendations for this purpose; (2) c) to assess the constitutionality of any published document and to declare unconstitutionality with general binding force, in accordance with the terms of Article 281. (3)

- (1) Constitutional Court
- (2) President of the Republic, ministers of the republic, Assembly of the Republic, prosecutor-general of the republic, minister of justice and chairman of regional assemblies.
- (3) Constitutional Court.

Article 147 (Jurisdiction as Guarantor of Loyalty to the Spirit of the Portuguese Revolution)

As guarantor of loyalty to the spirit of the Portuguese Revolution of 25 April 1974, the Revolutionary Council shall have the right: a) to decide, together with the president of the republic, on the appointment and dismissal of the prime minister; (1) b) to decide, together with the president of the republic, on the exercise of the right of suspensive veto, in accordance with the provisions of Article 139 (2)

- (1) Council of State
- (2) Eliminated.

Article 148 (Jurisdiction in Military Affairs)

1. As the political and legislative organ for military affairs, the Revolutionary Council shall have the right: a) to make laws and regulations concerning the organization, operation and discipline of the armed forces; (1) b) to approve international agreements or treaties pertaining to military affairs.(2)

2. The jurisdiction mentioned in clause a) of the preceding paragraph is exclusively that of the Revolutionary Council.

(1) Assembly of the Republic and High Council of National Defense.

(2) Assembly of the Republic.

Article 149 (1) (Form and Value of Acts)

1. The legislative or regulatory acts of the Revolutionary Council, as specified in Articles 144, 148 and 285 shall respectively have the form of decree-laws and regulatory decrees.

2. The other acts of the Revolutionary Council shall have the form of resolutions and shall be published, independently of promulgation by the president of the republic.

3. The value of the decree-laws of the Revolutionary Council is identical to that of the laws of the Assembly of the Republic or decree-laws of the government and the value of regulatory decrees is identical to that of regulatory decrees of the government.

(1) Eliminated.

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## POLITICAL LEANINGS OF NEW CABINET MEMBERS VIEWED

## Various Cabinet Members

Madrid DIARIO 16 in Spanish 30 Nov 82 pp 6-7

[Article by Mariano Guindal: "The Moderators of Change"]

[Text] To assert that the new government is Social Democratic would be simplistic; it would also be ignoring the ideological roots of the new ministers and the intense ideological debate that has been going on within the PSOE [Spanish Socialist Workers Party] since 1979. Felipe Gonzalez has put together a basically balanced administration in which all leanings are represented and in which individuals have been geared to the changes that the Socialist Party is planning. Thus, whereas Social Democrats carry more weight in the economic team, out-and-out Socialists are clearly present in the spheres of culture and education; the Foreign Ministry is being run by a man who is familiar with the Third World, and the ministries of defense, interior, justice, public administrations and territorial administration have been handed over to professionals who were picked because of their personal abilities.

The economic team has two clear ideological heads. One is Miguel Boyer, who is regarded as a pure Social Democrat and who has Carlos Solchaga and Ernest Lluch behind him. They are the "rosy trinity," as some party groups have begun to call them, or the "Girondists." The three are economists, professors, have close ties with business and banking and have been put in charge of the ministries involving planning and overhauling structures, such as: Economy (Boyer), Consumption and Commerce (Luis Velasco), Planning (M.A. Fernandez Ordonez), Industry and Energy (Solchaga) and Health and Social Security (Ernest Lluch). Many of these men embrace the economic ideas of Professor Fuentes Quintana and are ideal teammates for the current governor and assistant governor of the Bank of Spain, Alvarez Rendueles and Mariano Rubio. Boyer met Rubio in 1960 in the University Socialist Association. This Social Democrat team was soundly defeated at the last PSOE Congress (1981) by the economic ideas of the Madrid Federation headed by Javier Solana, Enrique Baron and Joaquin Almunia. The Social Democrats were kept out of the Executive Committee...

The other head of the economic team is Joaquin Almunia, the future labor minister, who is paired ideologically with Enrique Baron, the minister of transportation and communication. Whereas the Boyer-Solchaga duo will be engaged in economic planning and structural reforms, the Almunia-Baron tandem will have as their mission to create 800,000 new jobs in 4 years. Their team includes Julian Campo, the minister of public works and urbanism, and Carlos Romero, the minister of agriculture.

They are known as the "Jacobins" and have around them an important group of technicians who worked with Almunia on the government's economic program, including Alvaro Espina, Julian Garcia Vargas, Francisco Fernandez-Marugan, Luis Carlos Croissier, Alejandro Garcia Santacruz, Andreu Garcia de la Riva, Juan Munoz and Julio Rodriguez.

### Ideologues

To a Socialist government education is as important as the economy. The potential that this sphere offers for intensifying social change is currently much greater than the economy offers because the macroeconomic maneuvering room is very limited.

Felipe Gonzalez has put in two key men: Javier Solana as culture minister and Jose Maria Maravall in Education and Science. The former is considered a "nondogmatic and pragmatic Marxist" and is deeply concerned about the technological revolution, research and universities. He has been a member of the PSOE for more than 20 years and during its years in the underground enjoyed great prestige and was very active in professional associations.

Maravall is probably the PSOE's number one ideologue today. He was a member of the left-leaning Popular Liberation Front (Felipe) in the 1960's and was forced to go into exile in England for political reasons. He is a Felipe Gonzalez man who has never identified either with the Social Democrats or the dogmatic Marxists. His ideology could be summed up in his remark that "the important thing is to make the consolidation of democracy compatible with the consolidation of the socialist option, and therefore we have to permeate the social fabric." His mind is made up about issues such as private television, to which his approach is based on the British model, and freedom of education, which he accepts as long as "it allows for democratic control over administration and for academic freedom."

### "Vaticanists"

The reform of territorial administration and justice is in the hands of two "Vaticanists," which is the nickname that Pablo Castellano gave to the faction of the party that came from Democratic Left, had collaborated on "Notebooks for the Dialogue" or had had links with the most progressive Christian Democratic factions, such as Ruiz-Gimenez or Fernando Asua. These two ministers are Tomas de la Cuadra Salcedo in Territorial Administration and Fernando Ledesma in Justice. Both have very close ties to the current president of Parliament, Gregorio Peces-Barba.

Tomas de la Cuadra currently works for the same law firm, on Conde de Xiquena Street, as Gregorio Peces-Barba and Jose Maria Mohedano. These men have always been deeply involved in defending human rights and therefore have close ties with Ruiz-Gimenez, who will undoubtedly be appointed defender of the people. De la Cuadra worked with Garcia Enterria on the first draft of the LOAPA. He has always argued for a State of autonomies based on solidarity among peoples. He was later on the autonomy team of Maria Izquierdo, though he always held moderate views. The nationalists have had some misgivings about his appointment.

#### Administration

Fernando Ledesma is the administration's only "independent" minister. He comes to the new government from Democratic Justice, was never a member of the PSOE and is regarded as a "soft-touch" and too nice a fellow to carry out a reform as tough as the justice system requires. The new justice minister has known Ruiz-Gimenez since he was a law student in Salamanca. He has worked closely within the party with Virgilio Zapatero and District Attorney Martinez Zato, whom Felipe and Guerra brought in.

Javier Moscoso, the minister of public administrations (the former Presidency of the Government), has been placed in charge of one of the new government's most important and delicate tasks: reforming civil service. He is the man who will have to deal with the bureaucrats. Moscoso is above all a technician.

He has served as secretary of relations with the Cortes (1979) under the assistant minister to the presidency along with Arias-Salgado, and technical secretary under the Justice Administration along with Fernandez Ordonez. Ideologically, he has always been on the center-left and has always described himself as a Social Democrat. He served as secretary general of the UCD [Democratic Center Union] in Navarre.

#### Third World

Fernando Moran, the foreign affairs minister, fits in perfectly with the change that Felipe Gonzalez wants to make in Spain's foreign policy, in other words, to cease being obsessed with Europe and to further cooperation with Latin America while pursuing a proper good neighbor policy towards Portugal, Algeria, Morocco and France. Formerly involved in Tierno Galvan's PSP [People's Socialist Party], where he took a moderate reformist stand that bordered on Social Democracy, Moran aligned himself in the PSOE from the very beginning with the dissident Marxist faction headed by Pablo Castellano, Bustelo and Gomez Llorente, with which Tierno flirted but never established direct ties. Fernando Moran was not wishy-washy and backed this faction at the 28th Congress. He apparently took this stand more for strategic than ideological reasons. He is a close friend of Mario Soares and has strong ties with Juan de Borbon, the king's father.

Felipe Gonzalez has followed the advice of the experts who told him that the objective in the Defense and Interior ministries was simply to democratize and reform these sectors, not to pursue socialism.

#### Two Hardliners

Narcis Serra is not a Social Democrat. He was first a member of the Workers Front of Catalonia (the Catalan branch of the FLP [People's Liberation Front]), then moved over to Socialist Convergence of Catalonia, where he met Ernest Lluch, Joan Reventos and Obiols.

He supports self-determination for Catalonia and organizing Spain as a federation of nationalities; he is also an avowed Marxist. In 1977 Convergence merged with the PSC [Socialist Party of Catalonia]-PSOE, though always maintaining some distance from Madrid, which prompted severe clashes with Alfonso Guerra. He probably made his big political leap forward, however, when Tarradellas asked him to take over Public Works. Later, at the first municipal elections, he became the first democratic mayor of Barcelona. He was appointed to this difficult post because of his fine performance, his good relations with the chiefs of the Military Region and his steadfast, reliable character.

Barrionuevo's case is similar. His ideological past is somewhat problematic because he has had ties with sectors that are close to the men around Joaquín Leguina (who also comes from the Federation of Socialist Parties [FSP]), men such as Enrique Baron and Juan Barranco. There is nothing Social Democratic about him. When he was appointed Madrid City Hall councilman in charge of the Municipal Police, there was a major faction with links to New Force and very conservative sectors. Barrionuevo governed with an iron hand and carried forward the issue of the municipal crane [grua municipal], the blue zone or the ORA. A group of feminists once occupied City Hall, and Barrionuevo did not hesitate to use force to remove them, for which he was harshly criticized. In any event, all indications are that he will primarily try to maintain discipline in the State Security Forces. To this end he might have Rafael Vera on his side from the Civil Government of Madrid. In turn, Carlos Sanjuan de la Rocha will undertake the police reform, demilitarize the National Police and unify the three corps (Superior Police, Civil Guard and National Police) from the General Directorate of State Security or as chairman of the Interior Committee of the Congress of Deputies.

#### Role of Guerra

Madrid DIARIO 16 in Spanish 30 Nov 82 p 7

[Article by Carlos Davila: "Alfonso Guerra, Moderator of the Utopia"]

[Text] If Prime Minister Felipe Gonzalez prevailed so hard and so often on his longest-standing colleague, Alfonso Guerra, to accept the vice presidency, it was obviously not for the purpose of quenching the desire for power that the general deputy secretary of the PSOE harbors in the

innermost recesses of his heart. Those with evil minds are definitely on the wrong track in this case. However, not everything is clear about this peculiar relationship between Gonzalez and Guerra, which has been so little analyzed up to now; thus, it has always been a topic for trite remarks of varying validity.

Guerra, an implacable organizer, does not suffer from the sin of improvisation, but one of his most striking virtues is the element of surprise. In this regard, their differences notwithstanding, he is like Adolfo Suarez, the sleight of hand master during the first post-Franco period, who always left his closest colleagues thunderstruck with his unexpected, last-minute decisions. This psychological-political paradox could help us in some small way to understand the lengthy development period of the man who is now vice president. But this approach is obviously inadequate in explaining the final outcome of a foolish political roller coaster ride that the two main actors, Gonzalez and Guerra, should have resolved on the very day that they saw the polls loudly predicting a Socialist victory.

We ought to ask ourselves then (and this is not a pointless issue) whether there was some sort of substantive and formal pact between the two leaders of Spanish socialism. The answer is obvious: yes. Alfonso Guerra has had access to wideranging and compromising information on Felipe Gonzalez's government plans and has raised objections to both of the two men who are now "deputy ministers" (in the Fernandez Floriano sense of the term). Perhaps he thus wanted to make sure that an Executive Branch that did not sincerely belong to him (not even Guerra would tolerate such explicit moderation) would not immediately scuttle the policy of "actions for change" that was one of the keys to the big Socialist victory. Since some of the new ministers, in spite of their ideological calling cards, are not given to the flashiness of a permanent change in approaches, Guerra has been careful to negotiate control or supervision (choose the least aggressive term) over Felipe's Social Democratic administration.

In my judgment, Guerra the realist's main effort in the Moncloa will be as a "moderator of the utopia." This is a key function because an extremely bureaucratized party (thanks to the pro-forma purism of Carmen Garcia Bloise and Guillermo Galeote) could pressure the office of president for radical extravagances that Felipe Gonzalez, who has been immersed ever since Thursday night in the arduous job of president, will not have the time to tone down or simply to turn aside. If only for this reason the post of a political vice president like Martin Villa, who desperately looked for things to do, is not going to show up on the Socialist organizational chart. Guerra is going to be (and time will show that I am right) the man in charge of foisting off on the ministers the dirty work that Felipe Gonzalez will by his nature, a mixture of bonhomie and shyness, be reluctant to do. In the Moncloa Palace Guerra will continue to be the discreet confidant to whom Prime Minister Gonzalez will disclose all his doubts. And this is no minor role.



NEW USSR AMBASSADOR PANKIN ON U137, NORDIC ZONE, PALME

Stockholm DAGENS NYHETER in Swedish 5 Dec 82 p 16

Interview with new Soviet Ambassador Boris Pankin by Harald Hamrin: "New USSR Ambassador: 'We Did Not Meet With Understanding After U-137'"

Text The Soviet Union did not meet with any understanding in its efforts to improve relations with Sweden after the U-137 ran aground, says new Soviet Ambassador Boris Pankin in an interview with DAGENS NYHETER's Harald Hamrin. The ambassador also talks about the nuclear-free zone and the attempts by the United States to lure Sweden away from "the path of neutrality."

Sweden and the Soviet Union are now heading in the direction of normalization of the mutual relations, which have been strained since the U-137 ran aground in the Karlskrona archipelago a year ago. But the normalization has taken longer than what the Soviets wished. In Sweden there are forces which have tried to exploit the submarine incident in order to further worsen relations between the two countries.

These are the words of the new Soviet ambassador to Stockholm, Boris Pankin, in a DAGENS NYHETER interview.

The general tone of Ambassador Pankin's interviews is characterized by a desire to repair the damage inflicted on the relations, based on respect for the Swedish efforts in the disarmament area, for example.

But he is also critical of some points, concerning for example Sweden's military-industrial cooperation with the United States.

#### Positive Role

Here is a summary of some of the questions Ambassador Pankin touched on during the interview:

- 1) The new Swedish government under Olof Palme has shown "genuine interest" in developing "good neighborly relations" with the Soviet Union.

- 2) Sweden plays "a positive and constructive role" in the disarmament efforts, and the Swedish neutrality policy constitutes "an important stabilizing factor" in Northern Europe.
- 3) The Soviet Union "did not meet with any understanding" in its efforts to normalize relations with Sweden as soon as possible after the Karlskrona incident. There were "forces" in Sweden which tried to prevent such a normalization.
- 4) The United States is "trying in various ways to drag neutral Sweden into new forms of military-industrial cooperation," using them in order to lure Sweden "away from the path of neutrality."
- 5) A nuclear war cannot be kept limited. In reality even Sweden will be affected by a future nuclear war.
- 6) The Soviet Union is prepared to sit down at the negotiating table and discuss the establishment of a nuclear-free zone in the Nordic countries. But the Soviet Union is not prepared to submit, before the initiation of the negotiations, additional details about potential Soviet counter-concessions.

The interview took place in Ambassador Pankin's private residence in the modern embassy building in Marieberg in Stockholm. The floors are covered with oriental carpets from the Central Asian republics. The rooms are furnished with graceful chairs and display cabinets in some kind of "modern Soviet ro-coco style." The cabinets once belonged to Alexandra Kollontay, the legendary ambassador to Stockholm during 1930-45. On one of the cabinets stands a small porcelain group representing three chubby cherubs.

Ambassador Pankin says he was sent by his government with the express mission of "seeking new opportunities for long-term strengthening and developing" of relations in all areas--political, as well as economic and cultural.

"I am full of hopes and I came here with these hopes," he says. "My task here is also met by understanding by the new Swedish Social-Democratic government."

Ambassador Pankin emphasizes that the deterioration in the relations between Sweden and the Soviet Union was limited to the political level. Trade between the two nations continued as usual.

"Last year alone Soviet orders of Swedish machinery and equipment increased by 50 percent," he says. "I hope that this will have a positive effect on employment in Sweden."

Another area which is close to Ambassador Pankin is cultural exchange. He worked for about 20 years as a journalist for the Young Communist newspaper KOMSOMOLSKAYA PRAVDA, the last 8 years as editor in chief of the paper. He comes to Stockholm straight from the post as head of VAAP [expansion unknown], the Soviet authority which is in charge of copyright questions.

## Karlson on the Roof

In that role he participated in signing a number of agreements for translation of Swedish authors into Russian and of Soviet authors into Swedish. He mentions in particular Artur Lundkvist, Maria Wine, Sven Delblanc, Sara Lidman and Arvid Rundberg.

"And of course Astrid Lindgren, whose books about Karlson on the Roof and Pippi Longstocking have been published in editions numbering hundreds of thousands in our country. There is literally a Karlson sitting on every Russian roof!"

He is perhaps a little sorry that modern Russian authors have not been translated into Swedish to the extent they deserve.

"But in this respect as well things have begun to improve in Sweden," he says. "Our authors are now beginning to be published here."

## Literature Prize

A little more than a month ago he received the big Soviet state literature prize for his book "Strogaya Literatura" ("Severe Literature").

"It is a collection of critical essays of literature, in which I write about my heroes in modern Russian literature: Fyodor Abramov, Konstantin Simonov, Valentin Rasputin, Danil Granin and others.

His wife Valentina Pankina is also something of a "specialist" in the literary area, she says. Before moving to Stockholm she was leader of the department of the literature of "the Eastern republics" for the literary weekly LITERATURNAYA GAZETA in Moscow. She herself also translates prose from languages such as Uzbek, Kazakh, Tadzhik and Kirghiz.

## This Is What Boris Pankin Replied

### U-137 in Swedish Waters and the Consequences

Question The grounding in the Karlskrona archipelago led to a deterioration of relations between the two nations. Is it possible to say that our relations are now at a normal level again?

Answer As far as this incident is concerned, I would first like to make it completely clear that at the time our government gave a full and exhaustive explanation regarding the unintentional violation and breakdown of the Soviet submarine in Swedish territorial waters. Our government also offered its apologies in connection with this incident. Nevertheless, a deterioration of the relations could in fact be observed during the last year, although we did everything necessary in order for this not to happen. But I think it is possible to say that this affair has now been closed.

Question You mean, then, that the reason for the deteriorated relations are to be found on the Swedish side?

[Answer] It seems to me that after we on our side made the proper statements and offered our apologies we should not have prolonged the issue but instead should have returned to normal relations. We made our efforts in that direction. But we did not always meet with understanding.

[Question] You indicate that there were certain circles in Sweden which wanted to utilize the U-137 episode in order to worsen the relations or in any case prevent rapid normalization.

[Answer] Yes, I believe there were such forces during this period.

[Question] Were these forces on an official political level in Sweden?

[Answer] I do not know to what you refer. It can be stated, in any case, that the intensification of our relations, of our contacts, was very weak. This is a fact. During the second half of this year these circumstances began to cease.

[Question] But no official visits on a high political or diplomatic level took place.

[Answer] That is correct, but it does not depend on us. We are prepared to continue this exchange.

[Question] The visit planned by the supreme commander of the armed forces, Lennart Ljung, to the Soviet Union was canceled in connection with the U-137 incident. Will this visit take place now?

[Answer] An invitation has been extended from our side. The time is the object of discussion. But I want to stress that there are now no political obstacles from either side. It is a practical matter of agreement.

#### Soviet Articles About Swedish Neutrality

[Question] A relatively large number of articles have appeared in the Soviet press recently in which Sweden was criticized for, among other things, its alleged growing military-industrial cooperation with the United States. Is it the official Soviet view that Sweden is no longer completely reliable as a neutral state?

[Answer] I want to say quite clearly that Sweden's traditional policy--freedom from alliances in peacetime for the purpose of neutrality in wartime--is viewed by the Soviet Union as an important stabilizing factor for Northern Europe, a factor which makes it possible to ease tensions in the entire region. A clear and consistent implementation of the principles of the Swedish neutrality policy has always been met and will always be met by full understanding and recognition by the Soviet Union. We expect that no forces--neither internal nor external--will ever be successful in forcing Sweden off this path.

As for the material on Sweden in the Soviet press which you are talking about, such material really does occur from time to time. I would not say that it

has been a large number. But I believe there are reasons for this. There are nations within NATO, above all the United States, which in various ways try to force neutral Sweden into ever new forms of military-industrial cooperation. But we assume that they will not succeed by any means in leading Sweden away from the traditional neutrality line which Sweden maintains.

[Question] In the Soviet press Sweden has also been criticized for its overly strong defense. Does not a strong Swedish defense represent an important element in the so-called Nordic balance?

[Answer] I do not know to which article you refer. But we have a principle to which we always adhere, namely not to interfere in the affairs of other nations. It is not a matter for us but for Sweden to decide what defense you need. And I believe that the more independently Sweden acts in this respect the more it corresponds with the principles of neutrality.

#### Palme and Sweden's Relations With the Soviet Union

[Question] In an interview with the U.S. magazine NEWSWEEK Prime Minister Palme said that the fundamental Swedish security policy requires our country to maintain good neighborly relations with the Soviet Union. Do you believe that these can be more easily achieved with the new Social Democratic government in power in Sweden?

[Answer] I know of this interview with Olof Palme and of these statements by him concerning Swedish-Soviet relations. I believe that they in fact correspond with his efforts as a politician and leader of society. And I would like to stress that the Soviet foreign policy course toward Sweden has always rested on a basis of principles which imply establishing, maintaining and strengthening truly good neighborly relations between our countries. Neither in the past nor today do we see any reasons or conflicting issues which could form any obstacles to such relations of mutual respect, good neighborliness and cooperation. And I would like to emphasize that the position of the new Swedish government--as it was presented in Mr Palme's government declaration--permits me to view the future relations with optimism.

[Question] You do not believe that it could be easier to repair the strained relations with a new government in Sweden?

[Answer] What has happened has happened. Traditionally we have always had good neighborly relations, even if serious problems have sometimes occurred. Now we must look toward the future.

#### Cruise Missiles and the Consequences for Sweden

[Question] In 1978 President Kekkonen warned that Nordic territories could be overflowed by U.S. cruise missiles. What consequences will this have on the Soviet view of Sweden's neutrality? There have been speculations, for example, about the possibility that the Soviet Union could see itself forced to defend itself against such missiles through actions over Swedish territory.

been mentioned, including important ones, the significance of which could be discussed at the negotiating table.

[Question] Such as, for example, the withdrawal of Soviet nuclear weapons, which due to their stationing and their range can be assumed to be intended primarily for targets in Scandinavia?

[Answer] I do not like to engage in guesswork. I believe that what I have said here and what my government has said is enough to go on to practical and concrete negotiations at the level where issues such as these are decided.

[Question] But it has been stated on the part of NATO that if as a precondition for the establishment of a zone Denmark and Norway were to give up their so-called nuclear option--that is to say, the possibility of allowing nuclear weapons in wartime--this would be a concession which would require some Soviet counter-concession.

[Answer] We are speaking of the present. And as far as I know there are no nuclear weapons today in Northern Europe. Consequently, if a nuclear-free zone is created, no one would have to give up anything. This is what is important.

[Question] You do not regard it as a considerable concession on the part of NATO if Denmark and Norway were to give up their nuclear option in wartime?

[Answer] I do not want to think on behalf of the NATO strategists and do not want to enter into polemics with them. I can only repeat that at present there are no nuclear weapons in the Nordic countries. Thus, no country would need to give up anything if a zone were established.

The ground rules for the interview were written questions in advance, but follow-up questions were permitted. Consequently, no new areas of questioning were permitted, which is why there were no comments on the change of power in the Soviet Union.

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